

Decision 09-12-040 December 17, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Promote Policy
and Program Coordination and Integration in
Electric Utility Resource Planning.

Rulemaking 04-04-003
(Filed April 1, 2004)
(QF Issues)

Order Instituting Rulemaking to Promote
Consistency in Methodology and Input
Assumptions in Commission Applications of
Short-Run And Long-Run Avoided Costs,
Including Pricing for Qualifying Facilities.

Rulemaking 04-04-025
(Filed April 1, 2004)
(QF Issues)

**DECISION GRANTING INTERVENOR COMPENSATION TO THE
UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION
TO MULTIPLE COMMISSION DECISIONS**

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APPENDIX

**DECISION GRANTING INTERVENOR COMPENSATION TO THE
UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION
TO MULTIPLE COMMISSION DECISIONS**

1. Summary

This decision awards The Utility Reform Network (TURN) \$233,525.51 in compensation for its substantial contributions to Rulemaking (R.) 04-04-003 and R.04-04-025 via Decision (D.) 05-04-024, D.05-12-022, D.06-02-032, D.06-06-063, D.06-07-032, D.07-09-040, D.08-01-006, D.08-07-048, and D.08-09-024. This represents a decrease of \$12,843.23 or 5.2% from the amount requested due to an adjustment in the hourly rate for TURN consultant William Steinhurst, our correction of computational errors and travel hours, disallowance of the routine travel costs, and our inability to determine if a substantial contribution has been made by TURN to the ongoing Mohave Alternatives/Complements Study. Today's award payment will be allocated to the affected utilities. Rulemaking (R.) 04-04-003 and R.04-04-025 remain open pending resolution of additional issues in those dockets.

2. Background

The Utility Reform Network (TURN) seeks compensation in the amount of \$246,368.73 for substantial contributions to D.05-04-024, D.05-12-022, D.06-02-032, D.06-06-063, D.06-07-032, D.07-09-040, D.08-01-006, D.08-07-048, D.08-09-024 and the Mohave Alternatives/Complements Study. The amount of compensation at issue and the number of decisions that TURN claims to have made a substantial contribution to, suggest that a more thorough recitation of the interrelated history of these proceedings is in order.

On April 1, 2004, the Commission issued its Order Instituting Rulemaking (OIR) to Promote Policy and Program Coordination and Integration in Electric

Utility Resource Planning. The objective of this rulemaking was to establish an overall procurement incentive framework that would be consistent with the goals of the Energy Action Plan. In furtherance of this objective the staff paper entitled “An Incentive Framework for Utility Procurement of Energy Resources Modeled After Cap-and-Trade Principles of the Sky Trust” was circulated with the OIR and, on November 23, 2004, a ruling scheduling workshops to discuss the staff proposal issued. After the workshop, a report on the workshop, and comments and reply comments on the report, on January 13, 2006, a draft decision was issued. Following another round of comments and reply comments, on 5

February 16, 2006, the Commission issued D.06-02-032, its final Opinion on Procurement Incentives Framework.¹ Thus, R.04-04-003 provided the forum for the Commission’s first substantive look into the creation of a framework that would align resource planning and procurement with the goals of the Energy Action Plan, while simultaneously reducing greenhouse gas (GHG) emissions.

This Commission issued R.04-04-025 on April 28, 2004. This proceeding was intended to serve as the forum for developing the common methods, input assumptions, and updating procedures for avoided cost calculations in Commission proceedings, including but not limited to Energy Efficiency, Demand Response, Distributed Generation, and the ongoing Annual Earnings Assessment Proceedings. Subsequently, in D.03-12-062 the Commission directed that this rulemaking also serve as the forum for updating Qualifying Facility (QF) avoided cost pricing. A prehearing conference was held on November 9,

¹ D.06-02-032 is one of the decisions for which TURN seeks compensation.

2004. Pursuant to the January 4, 2005, Assigned Commissioner's Ruling and Scoping Memo the proceeding was divided into three phases.²

Phase 1, which resulted in D.05-04-024,³ considered the applicability of the E3 Research Report for use in evaluating energy efficiency investments for the 2006-2008 program cycle.⁴ On December 7, 2005, the Commission took up the issue of avoided costs valuation for energy efficiency programs in the 2006 Update Phase. This phase followed from D.05-09-043 wherein the Commission identified a number of issues related to energy efficiency avoided costs and the E3 calculator. Workshops held in the fall of 2005 on avoided costs, and in March of 2006 on the E3 Draft Report on 2006 Update to Avoided Costs and E3 Calculator, would inform the scope of the 2006 Update in R.04-04-025.

3. Requirements for Awards of Compensation

The intervenor compensation program, which is set forth in Pub. Util. Code §§ 1801-1812,⁵ requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation if that party 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.

² A fourth Phase entitled the "2006 Update" phase was subsequently added.

³ D.05-04-024 is one of the decisions for which TURN seeks compensation.

⁴ During the summer of 2004, Energy Division conducted a two-day workshop on the Draft E3 Report, entitled A Forecast of Cost Effectiveness Avoided Costs and Externalities Adders. Comments and Reply Comments on the Draft E3 Report comprised the record in Phase 1.

⁵ Unless otherwise indicated, all references to Rules are to the Commission's Rules of Practice and Procedure, and all references to Codes are to the California Public Utilities Code.

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 (PHC), pursuant to Rule 17.1 of the Commission's Rules of Practice and Procedure (Rules), or at another appropriate time 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 must 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) and 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 or as otherwise found by the Commission. (§§ 1802(i) and 1803(a).) An intervenor who has made a "substantial contribution" may also, in certain circumstances, receive a compensation award for fees and costs incurred in "obtaining judicial review." (§ 1802(a); *Southern California Edison Co. v. PUC* (April 19, 2004, B166993), 2004 Cal. App. LEXIS 568, affirming D.02-06-070 and D.03-04-034.)
6. The claimed fees and costs must be reasonable (§ 1801), necessary for and related to the substantial contribution (D.98-04-059), comparable to the market rates paid to others with comparable training and experience (§ 1806), and productive (D.98-04-059).

In the discussion below, the procedural issues in Items 1-4 above are combined and a separate discussion of Items 5-6 follows.

3.1. Preliminary Procedural Issues

Section 1802(b)(1) defines a customer as: (A) a participant representing consumers, customers or subscribers of a utility; (B) a representative who has been authorized by a customer; or (C) a representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential or small business customers.

In R.04-04-003, on July 27, 2004, Administrative Law Judge (ALJ) Wetzell ruled that TURN is a customer, pursuant to § 1802(b)(1)(C), and that TURN demonstrated significant financial hardship within the meaning of § 1802(g). A PHC in this proceeding was held on November 9, 2004.⁶ TURN timely filed its NOI in this proceeding on December 9, 2004. TURN again asserted financial hardship in its NOI. TURN has not previously requested compensation related to R.04-04-025. However, TURN's work in this proceeding was largely concurrent in time with its work in R.04-04-003. We therefore conclude that TURN was a customer, pursuant to § 1802(b)(1)(C), and that TURN demonstrated significant financial hardship within the meaning of § 1802(g).

Regarding the timelines of the request for compensation, TURN filed its request for compensation on November 21, 2008, within 60 days of D.08-09-024 being issued. No party opposed the request. In view of the above, we find that TURN has satisfied all the procedural requirements necessary to make its request for compensation in this proceeding.

4. Substantial Contribution

⁶ The PHC related to R.04-04-003 was held on April 30, 2004. TURN timely filed its NOI on June 1, 2004. TURN asserted financial hardship in its NOI.

In evaluating whether a customer made a substantial contribution to a proceeding, we look at several things. First, we look at whether the Commission adopted one or more of the factual or legal contentions, or specific policy or procedural recommendations put forward by the customer. (§ 1802(i).) Second, if the customer's contentions or recommendations paralleled those of another party, we look at whether the customer's participation unnecessarily duplicated or materially supplemented, complemented, or contributed to the presentation of the other party. (§§ 1801.3(f) 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.⁷

With this guidance in mind, we turn to the contributions TURN claims to have made in the various proceedings at issue.

4.1. Decision 06-07-032 (R.04-04-003 and R.04-04-025)

As part of R.04-04-003 the Commission reviewed long-term policy for new and existing QFs. Before evidentiary hearings began on the QF policy and pricing issues, the Commission encouraged all the parties to the QF proceedings to explore settlement possibilities. TURN was a party to the QF proceeding. During December 2005, all of the parties interested in the QF issues from

⁷ D.98-04-059, 79 CPUC2d 628 at 653.

R.04-04-003 and R.04-04-025 met for a 10-day period to negotiate the issues and pursue possible settlement of some, or all, of the outstanding issues. Pacific Gas and Electric Company (PG&E) and Independent Energy Producers (IEP) continued their negotiations, reached a settlement, and noticed a settlement conference, pursuant to Rule 51.1(b), for April 7, 2006. Following that meeting, after the completion of hearings, the settlement was finalized and on April 18, 2006, PG&E and IEP filed and served a Joint Motion for approval of the Settlement Agreement and Associated Amendments. While TURN did not formally join in the settlement, it submitted comments supporting the procedural motions on April 24, 2006, and comments indicating support for the settlement itself on May 18, 2006. Subsequently comments were requested from the parties on the issue of ownership of Renewable Energy Credits (RECs) associated with existing QF contracts covered by the settlement; TURN filed comments on this issue as well.

D.06-07-032 approves the settlement and adopts TURN's position on the treatment of QF RECs.

4.2. Decision 07-09-040 (R.04-04-003 and R.04-04-025)

TURN alleges that its involvement leading up to this decision was extensive. The record of this proceeding supports TURN's contention. TURN filed Rebuttal testimony on October 28, 2005, Opening and Reply Briefs on March 3 and 17, 2006, respectively, and participated in oral argument before the Commissioners on July 10, 2007.

TURN's activities in the proceeding led to its making numerous recommendations and the text of D.07-09-040 confirms that TURN:

- Proposed Short-Run Avoided Cost (SRAC) energy pricing methodologies that utilize implied market rates and

recommended use of the PG&E City Gate trading point price.
(D.07-09-040 at 28.)

- Recommended basing SRAC payments on actual electricity prices, using publicly available on-site peak pricing data.
(D.07-09-040 at 36.)
- Argued that the current IER's exceed actual market rates and result in payments that exceed the short run avoided cost and recommended that day ahead market prices be used to determine SRAC payments because they more accurately reflect the utilities avoided costs. (D.07-09-040 at 47.)
- Recommended against the use of a Variable Operation and Maintenance adder. (D.07-09-040 at 69.)
- Recommended that no additional payments be made to QFs for as available capacity. (D.07-09-04 at 82.)
- Proposed two methodologies for calculating an adjustment to reflect that a dispatchable combustion turbine (CT), when not in operation can be bid into the Independent System Operator.
(D.07-09-040 at 95.)

TURN's analysis and recommendations helped guide an ample part of the discussion in D.07-09-040.⁸ In its compensation request, TURN cites four particular instances wherein its recommendations were adopted in whole or in part. First, with regard to TURN's recommendation that SRAC payments be based on actual electricity market prices until the implementation of the California Independent System Operator's (CAISO) Market Design and Technology Update TURN notes that while the Proposed Decision (PD) would have adopted an SRAC price based on market prices alone, D.07-09-040 adopted a compromise approach and, consistent with its recommendation, ordered

⁸ TURN is quoted and/or its contribution is specifically acknowledged in D.07-09-040 at 2, 52, 53, 57, 67, 91, 96, 98-99, 122, 139, and 147.

workshops to refine the adopted Market Index Formula. Consistent with TURN's claim, D.07-09-040 provides extensive references to the analysis of this issue provided by TURN. (D.07-09-040 at 57.)

TURN next points out that it supported (and explained the rationale for) use, on an interim basis, of a reasonable proxy price for the value of as-available capacity. Again, D.07-09-040 supports this contention. In addition to noting that payments for as-available, capacity should be based on the fixed cost of a combustion turbine less the estimated value of ancillary services and capacity value that is recovered in market energy prices (as proposed by TURN), D.07-09-040 specifically identifies the rationale provided by TURN as the basis for its decision where it states:

We agree with TURN, SCE, and SDG&E on this issue. The avoided CT cost should be based on an economic carrying charge rate, escalated for inflation over the life of the contract. Using a levelized nominal dollar value to compute the CT cost would overstate the avoided capacity cost as well as present additional cost and risk for utilities and ratepayers. A primary concern is that the use of a levelized nominal value would require higher capacity payments in early years, exposing the utilities and their ratepayers to the risk of non-performance if the QF went off-line or simply failed to perform. While termination penalties or the posting of security could mitigate some of the concern, calculating a CT cost based on an economic carrying charge rate and escalating for inflation would eliminate this concern. In addition, as pointed out by SCE and TURN, it would be inappropriate to use a 20-year levelized value for a contract of less than 20 years in length. Using an economic carrying charge rate, escalated for inflation over the life of the contract, allows us to provide more flexibility in contract terms, from one year up to five years with the same CT cost estimate. As-available capacity prices should be expressed in real dollars. (D.07-09-040 at 94.)

TURN also claims to have substantially contributed to the development of a longer-term firm capacity payment structure in D.07-09-040. While TURN

acknowledges that it did not specifically recommend a longer-term firm capacity payment structure based on the fixed costs of a baseload combined cycle gas turbine plant, TURN points out that when the PD proposed such a payment its comments helped guide the discussion and contributed to the resolution of this issue. Again, D.07-09-040 confirms TURN's contention. As stated therein:

In its comments on this Decision, TURN pointed out that the \$21/kW-year originally proposed in the draft decision for the economic value is the estimated value for a CT, not a CCGT. Based on the CAISO's 2004 Annual Report on Market Issues and Performance, SCE proposes that these savings are \$55/kW-year for a CCGT. We find this to be a reasonable estimate, and thus will deduct this amount from the MPR capacity payment as well, resulting in a capacity value of \$91.97/kW-year (\$156.97/kW-year - \$10/kW-year - \$55.00/kW-year). (D.07-09-040 at 98-99.)

Lastly, TURN identifies small QF contracting options as another area where it made a substantial contribution. D.07-09-040 acknowledges TURN's contribution in this area where it states: "... we adopt contract provisions for 'small' QFs under 20 MW as described by TURN and modified by EPUC/CAC." (D.07-09-040 at 121.)

4.3. Decision 08-07-048 (R.04-04-003 and R.04-04-025)

D.08-07-048 resolves the joint applications for rehearing of D.07-09-040 filed by: 1) PG&E, Southern California Edison Company (Edison), SDG&E, TURN, and the Division of Ratepayer Advocates (Collectively, the Joint Applicants); 2) the Cogeneration Association of California (CAC) and the Energy Producers and Users Coalition (EPUC); and 3) the California Cogeneration Council. The group with which TURN jointly filed an application for rehearing sought elimination of the originally adopted changes to the utilities Time-of-Use (TOU) or Time of Delivery factors, modification of the 110% contracting

requirement, permission for the investor-owned utilities (IOUs) to file applications for retroactive true-up of SRAC energy payments, and the opportunity for the IOU's to demonstrate that in specific instances the temporary extension of the non-price terms and conditions has caused the utilities to pay more than their avoided costs.

In D.08-07-048, the Commission modified D.07-09-040 to provide the relief requested by TURN and the other Joint Applicants.

4.4. Decision 08-09-024 (R.04-04-003 and R.04-04-025)

In D.07-09-040, we adopted specific policies and pricing mechanisms applicable to the purchase of energy and capacity from QFs. During a technical workshop that preceded this decision, parties reached agreement on various issues. Among other things, parties agreed on how certain components of the SRAC formula should be determined. Energy Division, however, subsequently determined that there were discrepancies between the agreements reached during the workshop and the requirements of D.07-09-040. On February 6, 2008, Energy Division sent an e-mail to TURN and other parties listing the discrepancies and advised these parties to file a petition to modify D.07-09-040. In D.08-09-024, the Commission addressed a petition for modification of D.07-09-040 filed by the CAC/EPUC and the IEP. TURN filed a response to the petition to modify that supported most of the proposed modifications and expressed its views on some questions on which there was disagreement.

D.08-09-024 essentially agreed with TURN's comments with regard to publications that would be used as the sources for market price data, and agreed not to lock in a particular set of publications. Also, with regard to the definition of a "Small QF," we agreed with TURN that the maximum annual energy

deliveries allowable in order to meet this definition should be 131,400 MWh rather than the 175,200 MWh proposed in the petition to modify.

4.5. Decision 05-04-024 (R.04-04-025)

Among other things, we issued R.04-04-025 to develop avoided costs in a consistent and coordinated manner across Commission proceedings. As part of this rulemaking, we directed the Energy Division to conduct a workshop on the draft E3 report to allow parties to comment on the application of the E3 methodology and resulting forecasts for use in energy efficiency as well as other resource areas.⁹ Two days of workshops were held and post-workshop comments were filed on August 16, 2004.

TURN filed both post-workshop and reply comments. TURN urged the adoption of time-differentiated avoided costs for energy efficiency, based on the methodology proposed by E3. TURN also asked the Commission to act expeditiously to assure that the next cycle of energy efficiency programs would be designed with appropriate values for peak energy. We agreed that the E3 methodology should be immediately adopted for use in evaluating energy efficiency programs proposed for 2006 and noted that, as “TURN pointed out, the existing energy efficiency avoided costs are so dated that the current E3 avoided cost, even without further refinement, represent an improvement needed now to avoid inefficient energy efficiency program planning” in 2005

⁹ The E3 methodology was described in a report called, *Methodology and Forecast of Long-Term Avoided Cost(s) for the Evaluation of California Energy Efficiency Programs* (E3 report).

and 2006.¹⁰

(D.05-04-024 at 40.)

TURN also argued that distributed generation (DG) must be evaluated carefully, with avoided cost valuation parameters dependent upon the size and load shape of individual DG units (thus one avoided cost method would be inappropriate for all DG). Consistent with this analysis, TURN recommended that we consider the E3 Report's use in calculating QF payments and evaluating demand response and DG programs in a later phase of this proceeding or a new proceeding. Again, we agreed with TURN's recommendation; on February 18, 2005 (by Assigned Commissioner's Ruling) all QF issues were moved to Phase 2, and all long-run avoided cost issues other than energy efficiency valuation were moved to Phase 3.

4.6. Decision 06-06-063 (R.04-04-025)

In D.06-06-063, the Commission refined the E3 avoided cost methodology adopted in D.05-04-024 and addressed data consistency and quality control issues related to energy efficiency avoided costs.

TURN states that its involvement in this part of the proceeding was extensive. The record of the proceeding bears TURN's contention out. TURN submitted pre-workshop comments in response to the December 27, 2005 Assigned Commissioner's Ruling; participated in the January 24, 2006 public workshops and the two-day workshop held in March 2006; filed Opening and Reply Comments on the 2006 Update; and filed Reply Comments on the Draft Decision in this proceeding.

¹⁰ TURN also cautioned against using the E3 methodology to evaluate avoided costs of any resources other than energy efficiency programs.

TURN made numerous recommendations over the course of its involvement in the issues leading to this decision. Among other things, TURN recommended that utilities include the data source and basis for the non-DEER energy and demand estimates endorsed; advocated increasing the present value of the generation avoided costs for residential and commercial air conditioning; argued that all utilities should be required to add to the top 100 hours the Combustion Turbine capital cost, calculated using a real economic carrying charge rate, minus the energy savings created by the Combustion Turbine; and argued that if updated electricity market data is used to calculate shareholder earnings under a future risk/return mechanism the utilities would receive a windfall.

As TURN notes, consistent with its recommendations, D.06-06-063 adopted the DEER definition of peak kW, subject to ex post true-up. D.06-06-063 also adopted TURN's recommendation that the utilities be required to provide the data source and basis for the non-DEER energy and demand estimates they provide. The Commission also adopted nearly all of TURN's recommendations regarding the load shape update initiative in D.06-06-063. Finally, TURN successfully opposed PG&E's argument that the Load Shape Update Initiative should be considered in Phase 2 of R.06-04-010 and not funded out of the 2006-2008 evaluation, measurement and verifications (EM&V) budgets.

Although TURN was not successful on every argument presented, the decision clearly reflects the significant impact of TURN's advocacy.¹¹ This Commission has awarded full compensation even where the intervenor's

¹¹ See also D.06-06-063 at 42, 48, 51, 92 (COL #5), and 93 (COL #8).

positions were not adopted in full, especially in proceedings with a broad scope. (D.98-04-028, 79 CPUC2d 570, 573-574.) Here, 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 all of the issues it raised.

4.7. Decision 08-01-006 (R.04-04-025)

In D.05-04-024, we adopted an avoided-cost methodology for the purpose of evaluating the 2006-2008 energy efficiency portfolio plans of PG&E, SCE, SDG&E, and SoCalGas (collectively, "the Utilities"). In D.06-06-063, we refined these avoided costs and addressed other issues related to the calculation of energy efficiency cost-effectiveness. In D.08-01-006, we responded to the Utilities Joint Petition for Modification requesting substantive modifications to the treatment of energy efficiency costs addressed in D.06-06-063.

TURN reviewed the petition then discussed the issues raised and coordinated its response with Division of Ratepayer Advocates (DRA). Rather than file a separate pleading, TURN filed a joint response with DRA. This filing supported the Commission's directives in D.06-06-063 and the Compliance Ruling on how to calculate the TRC test. Specifically the TURN/DRA filing argued that foundational documents, including the Standard Practice Manual (SPM) and the policy rules, define the correct treatment of program costs for all distribution methods (traditional rebate, direct-install and upstream/midstream programs), and confirmed that no one method is either advantaged or disadvantaged by the application of the TRC prescribed in D.06-06-063. However, noting that D.06-06-063 is silent on how to treat "free rider" costs in calculating TRCs, the TURN/DRA filing pointed out that there could be a disadvantage imposed on non-direct rebate programs, and recommended that

specific clarifications to the SPM or policy rules be made to reflect the proper treatment of program costs, and to develop additional numerical examples for direct rebates, direct-install and upstream/midstream programs to facilitate comparisons under various scenarios.

While we did not adopt the latter recommendation,¹² we generally agreed with the assessment of the other issues addressed in comments filed by TURN/DRA (D.08-01-006 at 22), and denied the Utilities Joint Petition for Modification. Like with D.06-06-063, 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.

4.8. Decision 06-02-032 (R.04-04-003)

Starting On March 7, 2005, the Commission convened a three-day workshop to consider the potential interactions between strategies for GHG reduction and financial incentives for procurement performance that would apply to the four major IOUs. TURN participated in these workshops. After the workshops parties, including TURN, submitted comments and reply comments on the staff issued workshop paper. Subsequent to the events outlined above:

- 1) Governor Schwarzenegger announced his statewide GHG reduction targets.¹³
- 2) In September and October 2005, the California Energy Commission and the Commission adopted the Energy Action Plan II.¹⁴

¹² Instead, we directed Energy Division to update the 2001 SPM so that it includes numerical examples for various program delivery strategies.

¹³ See Executive Order S-3-05.

- 3) On October 6, 2005, the Commission issued a Policy Statement on GHG Performance Standards and stated its intent to investigate the integration of GHG emissions standards into its procurement policies.¹⁵

Thus, rather than deciding a particular issue or resolving a dispute between particular parties, D.06-02-032 is a broad policy decision. While TURN actively participated in the proceeding by attending workshops, filing comments and reply comments on the workshop report, and filing comments on the draft decision, for the most part, TURN's significant contributions were made in workshops and are not specifically identified in D.06-02-032.¹⁶

4.9. Mohave Alternatives/Complements Study (R.04-04-003)

On December 20, 2004, the Commission issued D.04-12-048 which adopted Long-Term Procurement Plans (LTPP) for PG&E, SCE and SDG&E and provided direction to the utilities on the procurement of the resources identified in the LTPPs. In Ordering Paragraph 3 of D.04-12-016, we also directed SCE and the other stake holders to study alternatives to Mohave's continuing operation as a coal-fired plant [MACS Study] and to report on the study in R.04-04-003.

TURN asserts that it actively participated in reviewing and providing verbal and written comments on the draft MACS study. In particular, TURN's

¹⁴ See D.06-02-032 at 9-10.

¹⁵ The GHG Policy Statement can be viewed at:
<http://www.cpuc.ca.gov/PUBLISHED/Report?50432.htm>.

¹⁶ D.06-02-032 did embrace "TURN's observations that, to the extent that ratepayer-funded projects are creating such allowances, we should not preclude from consideration the concept of 'shared-savings,' whereby both ratepayers and shareholders benefit from the sale of them." (D.06-02-032 at 34.)

consultant “traveled to Phoenix for a workshop regarding the draft study, and met with NRDC to discuss potential strategies.”¹⁷ TURN then notes that the issues regarding Mohave alternatives were not resolved in this docket, and are still under consideration in A.06-12-022, where TURN remains an active participant. Thus, TURN requests compensation for a purported substantial contribution to a proceeding that did not result in a subsequent decision.

Citing D.06-11-038 at 5-6, TURN correctly points out that because “[t]he post-decision phase of the Mohave proceeding did not result in a subsequent decision by the Commission, so the typical method of analyzing an intervenor’s contributions to determine if they assisted the Commission in making a decision is not applicable.” However, in contrast to TURN’s application which states only that TURN reviewed the draft MACS study and provided verbal and written comments, and that TURN’s consultant “traveled to Phoenix for a workshop regarding the draft study, and met with NRDC to discuss potential strategies,” the NRDC request at issue in D.06-11-038 provided specific details of NRDC’s work and contribution. Among other things, D.06-11-038 notes that:

NRDC provided written and oral comments on SCE’s plans for the study, participated in all {sic} meeting of the stakeholders with the contractors, submitted written comments on three drafts of the study, provided oral input to the contractors, and coordinated with other stakeholders to avoid duplication of effort. (*Id.* at 6.)

TURN’s claim lacks both the depth and detail of that submitted by NRDC. Absent a more detailed discussion of what contributions were made, we cannot find a substantial contribution to this proceeding. Our inability to determine that a substantial contribution has been made is not analogous to a finding that no

¹⁷ The NRDC is the National Resource Defense Counsel.

substantial contribution has been made. Since work on this issue continues, in A.06-12-022, TURN is advised to resubmit its claim, albeit with more detail and documentation, when a decision issues in that proceeding.

4.10. Decision 05-12-022 (R.04-04-003)

On December 20, 2004, we issued D.04-12-048, a decision adopting LTPP and providing direction on procurement resources for PG&E, SCE, and SDG&E. TURN was an active participant in, and has already received compensation for, the earlier phase of this proceeding that resulted in D.04-12-048. Several parties filed Petitions to Modify (PTM) D.04-12-048. In its PTM, PG&E asked for the elimination of the cost cap established in D.04-12-048 and the reaffirmation of the cost-of-service ratemaking for reasonably incurred cost of new generation. (D.04-12-048 at 9.) In its PTM, IEP requested that all costs be reflected in bids, that the cost cap be applied not only to capital costs but to all cost components, and that any cost savings be allocated to the shareholders only. (D.04-12-048 at 10.)

On March 30, 2005, TURN filed a response to these petitions. As set forth in D.05-12-022:

TURN supports PG&E's PTM in part and opposes IEP's PTM. TURN supports a hybrid-market consisting of both utility-owned and non-utility owned resources, and a diversified portfolio of PPAs and utility-owned resources. TURN opposes IEP's PTM because IEP's proposal would "convert the utility into just another market bidder," eliminating "the ability to obtain power at the cost of providing it." TURN does not support other aspects of PG&E's PTM. TURN prefers that the Commission allow for cost-based utility-owned generation, but subject to balanced reward and penalty structures that are developed on a case-by-case basis. TURN is concerned that under the mechanism set by the Commission, the utility will either refuse to propose any new generation or bid high to cover all foreseeable risks, and that the

symmetrical sharing may help mitigate the problem only to a certain extent. TURN recommends that utilities be allowed to propose cost-based generation through a CPCN and the application include an opportunity for competitors to offer alternatives to the proposed utility project. (D.05-12-022 at 10, citations omitted.)

Consistent with TURN's recommendations, D.05-12-022 denied both PG&E and IEP's PTMs. In adopting these recommendations, D.05-12-022 specifically embraced TURN's rationale and noted:

We agree with TURN that diversified portfolios help to minimize market risk as well as other types of risk. Both utility-owned and IPP-owned generation bring unique benefits and risks. Therefore, it is important that we sustain the cost cap to help keep the playing field level, but, as TURN suggests, we will not treat the regulated utilities as simply another bidder in the market. (D.05-12-022 at 11.)

We therefore find that TURN made a substantial contribution to D.05-12-022.

5. Contributions of Other Parties

Section 1801.3(f) requires an intervenor to avoid participation that duplicates that of similar interests otherwise adequately represented by another party, or participation unnecessary for a fair determination of the proceeding. Section 1802.5, however, allows an intervenor to be eligible for full compensation where its participation materially supplements, complements, or contributes to the presentation of another party if that participation makes a substantial contribution to the Commission order.

As a general matter, TURN asserts that it took all reasonable steps to keep duplication to a minimum, and to ensure that when it did happen, TURN's work served to complement and assist the showings of the other parties. TURN

further asserts that any incidental duplication that may have occurred here was more than offset by TURN's unique contributions to the proceedings.

More specifically, TURN first notes that with respect to the avoided cost issues in Phase 1 of R.04-04-025, DRA did not participate and TURN was the sole representative of the residential and small commercial ratepayers of PG&E, SCE, SDG&E, and SoCalGas. Second, TURN points out that in the GHG phase of R.04-04-003 this Commission directed all parties to set forth their position on all of the substantive issues presented. Consistent with our directive each party, including TURN, submitted separate comments and participated independently in the workshops. Finally, TURN relates that during the 2006 Update Phase, TURN, DRA and the utilities were the only active parties. While TURN and DRA represented overlapping interests, TURN notes that it collaborated closely with DRA to minimize duplication, and jointly prepared and filed two sets of comments. TURN asserts that this coordination reduced both entities' workload and resulted in increased efficiency. In addition, this coordination allowed TURN and DRA to address different issues. By way of example, TURN notes that it did not address the proper functioning of the SPM cost-effectiveness test because it knew that DRA would comprehensively address that issue.

We agree with TURN's assessment and, regarding contributions by other parties, further note that in a proceeding involving multiple participants, it is virtually impossible to completely avoid some duplication of the work of other parties. TURN states that it took all reasonable steps to keep duplication to a minimum and to ensure that its work served to supplement, complement, or contribute to the showing of the other active party in this proceeding, DRA. (§ 1802.5.) TURN states that it collaborated closely with DRA throughout these

proceedings, coordinating discovery, analysis, and discussions. We therefore find that there was no unnecessary duplication of effort in these proceedings.

6. Reasonableness of Requested Compensation

TURN requests \$246,368.73¹⁸ for its participation in these proceeding, as follows:¹⁹

Attorney/Staff Work on D.05-04-024 (R.04-04-025)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel P. Florio	2004	9.25	\$470	\$4,347.50
Michel P. Florio	2005	0.75	\$470	\$352.50
Hayley Goodson	2004	.50	\$190	\$95.00
Hayley Goodson	2005	2.75	\$190	\$522.50
William Marcus	2004	19.50	\$195	\$3,802.50
William Marcus (travel)	2004	4.00	\$97.50	\$390.00
Jeff Nahigian	2004	4.25	\$140	\$595.00
Cynthia Mitchell	2004	18.00	\$115	\$2,070.00
Cynthia Mitchell	2005	4.50	\$140	\$630.00
Nina Suetake	2004	1.50	\$190	\$285.00
<i>Subtotal</i>		65.00		\$13,090.00

Attorney/Staff Work on D.06-06-063 (R.04-04-025)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel P. Florio	2006	.50	\$485	\$242.50
Marcel Hawiger	2005	1.75	\$270	\$472.50
Hayley Goodson	2005	9.25	\$190	\$1,757.50
Hayley Goodson	2006	57.25	\$195	\$11,163.75
William Marcus	2006	21.42	\$220	\$4,712.40

¹⁸ In the tables below we correct, where necessary, TURN's calculation errors. Our corrections bring different results than those requested by TURN: it is \$59,288.97 in R.04-04-025, \$185,689.77 in R.04-04-003, and \$244,978.74 for the whole claim. We also separate travel hours, in accordance with TURN's timesheets and the actual travel time, as explained in more detail in Section 6.1 of the decision.

¹⁹ TURN's correspondence of August 31 and September 2, 2009, provided breakdown of the requested amount by decisions.

William Marcus (travel)	2006	8.00	\$110	\$880.00
Cynthia Mitchell	2005	28.00	\$140	\$3,920.00
Cynthia Mitchell (travel)	2005	3.00	\$70.00	\$210.00
Cynthia Mitchell	2006	99.00	\$140	\$13,860.00
Cynthia Mitchell (travel)	2006	3.00	\$70.00	\$210.00
Subtotal		231.17		\$37,428.65

Attorney/Staff Work on D.08-01-006 (R.04-04-025)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Hayley Goodson	2007	7.25	\$210	\$1,522.50
Cynthia Mitchell	2007	6.25	\$140	\$875.00
Subtotal		13.50		\$2,397.50

Preparation of NOI and Compensation Request (R.04-04-025)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel P. Florio	2004	1.00	\$235	\$235.00
Hayley Goodson	2007	3.50	\$105	\$367.50
Hayley Goodson	2008	32.00	\$140	\$4,480.00
Subtotal		36.50		\$5,082.50

Expenses	
Consultant Travel	\$464.97
Consultant Lodging	\$534.95
Photocopying Expenses	\$153.87
Auto, Parking and Tolls	\$134.40
Postage	\$2.13
Subtotal	\$1,290.32
Total Requested Compensation for R.04-04-025	\$59,288.97

Attorney/Staff Work on D.06-02-032 (R.04-04-003)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel P. Florio	2005	2.50	\$470	\$1,175.00
Michel P. Florio	2006	0.75	\$485	\$363.75
Robert Finkelstein	2005	2.50	\$395	\$987.50
Marcel Hawiger	2005	.75	\$270	\$202.50
Marcel Hawiger	2006	3.00	\$280	\$840.00

Matthew Freedman	2005	7.50	\$270	\$2,025.00
Matthew Freedman	2006	10.75	\$280	\$3,010.00
Hayley Goodson	2004	.25	\$190	\$47.50
Hayley Goodson	2005	39.00	\$190	\$7,410.00
Hayley Goodson	2006	3.50	\$195	\$682.50
Nina Suetake	2005	44.00	\$190	\$8,360.00
William Marcus	2005	1.33	\$210	\$279.30
William Steinhurst	2005	17.75	\$180	\$3,195.00
Bruce Biewald	2005	4.50	\$180	\$810.00
Cynthia Mitchell	2004	1.00	\$115	\$115.00
Cynthia Mitchell	2005	61.50	\$140	\$8,610.00
Cynthia Mitchell (travel)	2005	6.00	\$70	\$420.00
Subtotal		205.58		\$38,533.05

Attorney/Staff Work on D.05-12-022 (R.04-04-003)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel P. Florio	2005	8.25	\$470	\$3,877.50
Robert Finkelstein	2005	.50	\$395	\$197.50
Subtotal		8.75		\$4,075.00

Attorney/Staff Work on D.06-07-032 (R.04-04-003)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel P. Florio	2006	5.75	\$485	\$2,788.75
Matthew Freedman	2006	1.75	\$280	\$490.00
Subtotal		7.50		\$3,278.75

Attorney/Staff Work on D.07-09-040 (R.04-04-003)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel P. Florio	2004	5.75	\$470	\$2,702.50
Michel P. Florio	2005	76.50	\$470	\$35,955.00
Michel P. Florio	2006	52.50	\$485	\$25,462.50
Michel P. Florio	2007	43.25	\$520	\$22,490.00
Robert Finkelstein	2005	.25	\$395	\$ 98.75
Matthew Freedman	2004	7.50	\$270	\$2,025.00
Matthew Freedman	2006	3.75	\$280	\$1,050.00
Hayley Goodson	2006	1.25	\$195	\$243.75
William Marcus	2004	4.33	\$195	\$844.35

Attorney/Staff Work on D.07-09-040 (R.04-04-003)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
William Marcus	2005	25.17	\$210	\$5,285.70
William Marcus (travel)	2005	4.00	\$105.00	\$420.00
William Marcus	2006	8.50	\$220	\$1,870.00
William Marcus (travel)	2006	4.00	\$110	\$440.00
William Marcus	2007	1.17	\$235	\$274.95
Greg Ruszovan	2005	13.05	\$155	\$2,022.75
Kevin Woodruff	2004	9.00	\$200	\$1,800.00
Kevin Woodruff	2005	6.50	\$200	\$1,300.00
<i>Subtotal</i>		266.47		\$104,285.25

Attorney/Staff Work on D.08-07-048 (R.04-04-003)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel P. Florio	2007	2.75	\$520	\$1,430.00
<i>Subtotal</i>		2.75		\$1,430.00

Attorney/Staff Work on D.08-09-024 (R.04-04-003)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel P. Florio	2007	21.75	\$520	\$11,310.00
Michel P. Florio	2008	10.50	\$535	\$5,617.50
<i>Subtotal</i>		32.25		\$16,927.50
Attorney/Staff Work Mohave - MACS (R.04-04-003)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
James Helmich	2005	51.00	\$160	\$8,160.00
<i>Subtotal</i>		51.00		\$8,160.00

Preparation of NOI and Compensation Request (R.04-04-003)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel P. Florio	2007	3.00	\$260.00	\$780.00
Michel P. Florio	2008	21.75	\$267.50	\$5,818.13
Nina Suetake	2008	4.00	\$112.50	\$450.00
<i>Subtotal</i>		28.75		\$7,048.13

Expenses

Consultant Travel	\$825.30
Consultant Lodging	\$197.93
Photocopying Expenses	\$565.20
Auto, Parking and Tolls	\$237.10
Postage	\$41.34
Phone & Fax	\$85.22
<i>Subtotal</i>	<i>\$1952.09</i>
Total Requested Compensation for R.04-04-003	\$185,689.77

In general, the components of this request must constitute reasonable fees and costs of the customer's preparation for and participation in a proceeding that resulted in a substantial contribution. The issues we consider to determine reasonableness are discussed below.

6.1. Hours and Costs Related to and Necessary for Substantial Contribution

We first assess whether the hours claimed for the customer's efforts that resulted in substantial contributions to Commission decisions are reasonable by determining to what degree the hours and costs are related to the work performed and necessary for the substantial contribution.

TURN documented its claimed hours by presenting a daily breakdown of the hours of its attorneys, accompanied by a brief description of each activity. In general, the hourly breakdown reasonably supports the claim for total hours with the exception of the hours claimed for the Mohave work and travel that we consider routine.

We note that TURN's request for compensation (at 37-39) does not show travel time, while consultant's timesheets reflect travel. On page 42 of the Request for Compensation, TURN explains that in its timesheets the consultant's time spent on travel has been reduced by 50%, to achieve the arithmetic result as billing at one-half of the regular hourly rate. We remind TURN that timesheets shall reflect "time records of hours worked" (Rule 17.4(b) of the Commission's

Rules of Practice and Procedure), or actual time, not reduced in half. Monetary claims should be itemized so that travel time does not appear as time associated with the merits of the proceeding, as TURN did in this request.

Marcus's timesheets in R.04-04-003 show several trips to and from San Francisco: On December 13 and 14, 2005, to attend settlement negotiations, and February 2, 2006, to attend a hearing. His timesheets in R.04-04-025 also show travels to and from San Francisco, to attend workshops: on June 30 – July 1, 2004, January 24, 2006, and March 14, 2006. Unfortunately, his timesheet's travel-related entries improperly combine travel time with other activities, such as attending negotiations, hearings, or workshops, which violates the provisions of Rule 17.4(b)(2) of the Rules of Practice and Procedure. In order to separate travel time from professional activities, we assume that one-way trip between JBS Energy's offices in West Sacramento and San Francisco takes approximately two hours. We consider travel within the radius of approximately 120 miles (one way) to and from San Francisco as routine and not compensable. Based on our assumption that his travel between his office and the Commission is approximately two hours long, for each four actual hours of travel we deducted two hours from Marcus's professional time. The results are reflected in the corrected claim in the previous tables. Here we disallow as routine Marcus's travel time, at half hourly rate. A table below summarizes these steps:

Proceeding	Year	Detail	Hours Deducted from the requested professional hours at full hourly rate	Disallowed travel hours at half hourly rate
R.04-04-003	2005	Round trip in December	2.00	4.00
R.04-04-003	2006	Round trip in February	2.00	4.00
R.04-04-025	2004	Round trip June 30-	2.00	4.00

		July 1st		
R.04-04-025	2006	Round trip in January and March	4.00	8.00

Consultant Mitchell's timesheets also reflect several trips between Reno, Nevada, and San Francisco, and report only half the actual travel hours, while in the request her travel time is not designated. In the request table (above) and in our award, we designate her actual travel hours, at half her hourly rate.

We also note that although the number of hours claimed for preparation of the compensation request are higher than we typically find, they are reasonable given the number of decisions covered in the request.

6.2. Intervenor Hourly Rates

We next take into consideration whether 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. TURN seeks the following previously approved rates:

Attorney	Work Year	Rate	Reference
Robert Finkelstein	2005	\$395	D.05-12-038
Michel Florio	2004	\$470	D.05-12-038
	2005	\$470	D.06-07-011
	2006	\$485	D.06-11-039
	2007	\$520	D.08-03-012
	2008	\$535	D.08-07-043
Hayley Goodson	2004	\$190	D.05-01-007
	2005	\$190	D.06-02-016
	2006	\$195	D.07-17-026
	2007	\$210	D.07-12-026
	2008	\$280	D.08-08-037
Marcel Hawiger	2005	\$270	D.06-04-029
	2006	\$280	D.07-12-026
Nina Suetake	2004	\$190	D.06-04-065
	2005	\$190	D.06-04-065
	2008	\$225	D.08-11-053
Matthew Freedman	2004	\$270	D.05-06-049

Attorney	Work Year	Rate	Reference
	2005	\$270	D.06-04-029
	2006	\$280	D.07-12-026

Consultant	Work Year	Rate	Reference
Bill Marcus	2004	\$195	D.05-03-016
	2005	\$210	D.06-04-029
	2006	\$220	D.07-05-043
	2007	\$235	D.08-11-027
Cynthia K. Mitchell	2004	\$115	D.05-01-007
	2005	\$140	D.06-02-016
	2006	\$140	D.07-17-040
	2007	\$140	D.07-17-040
Jeff Nahigian	2004	\$140	D.05-04-031
Greg Ruzovan	2005	\$155	D.06-10-018
James Helmich	2005	\$160	D.06-10-018
Kevin Woodruff	2004	\$200	D.04-08-042
	2005	\$200	D.06-07-011
Bruce Biewald ²⁰	2005	\$180	D.07-06-031

TURN also asks us to set the year 2005 hourly rate for Steinhurst.

Steinhurst's year 2004 hourly rate was set at \$150 in D.06-06-057, and his 2006 hourly rate was set at \$180 in D.07-06-031. TURN requests an hourly rate of \$180 for Steinhurst's year 2005 work. In support of this request, TURN states that were the Commission to merely escalate Steinhurst's approved \$150 rate for 2004 by 3% per year pursuant to D.05-11-031, the 2006 rate would be \$160 (rounded to the nearest \$5). To put this into perspective, TURN notes that the \$180 rate requested for Steinhurst's year 2005 work is still in approximately the bottom quartile of the range, even though his credentials and experience would seem to

²⁰ The hours claimed for Biewald are set forth in Appendix A to the Request as work initiated by Schissel. Compensation for these hours was not sought by Schlissel.

indicate a rate in the upper reaches of the range. TURN submits that under the circumstances this would be unfair and inappropriate, and instead the 2005 rate for Steinhurst should be set at \$180.

The guidelines governing the exception to the 3% limit on increases for hourly rates which TURN relies on generally applies “[w]here a representative’s last authorized rate is below that of the range of rates shown in the tables [above] for representatives with comparable qualifications.”²¹ In D.05-11-031, we adopted a range of \$110-\$360 for hourly rates for experts in 2005. Thus the prior rate, the prior rate with a 3% increase, and the requested rate are all within the range of rates for representatives with Steinhurst’s qualifications. The exception does not seem to provide for increases within a particular range. However, rather than strict adherence to this guideline we have, when contemplating increases under this provision, looked at the totality of circumstances surrounding the request. In D.07-06-031, we were persuaded by “TURN’s argument that given his education and experience, Synapse could have charged an even higher rate for Steinhurst and still have a Commission finding of reasonableness.” (D.07-06-031 at 20.) Indeed, after acknowledging that this exception is also generally applicable only to work performed in 2005, that Steinhurst performed work in 2004 and 2006 but not in 2005, and that rates for

²¹ In relevant part, section 2 in D.05-11-031 provides: “Where a representative’s last authorized rate is below that of the range of rates shown in the tables above for representatives with comparable qualifications, an increase is reasonable to bring the representative’s rate to at least the bottom level of the rate range. Here, we have in mind certain representatives who have historically sought rates at or below the low end of the range of rates for their peers [footnote omitted]. We emphasize, however, that for any given level of qualifications, there will always be a range of rates in the market, so this increase is intended to narrow but not necessarily eliminate perceived disparities.”

work performed in 2006 and 2007 are addressed in D.07-01-009 (which did not include this specific condition for adjusting rates for either of those years) we approved the requested 2006 hourly rate of \$180 for Steinhurst.

Here, we note that the rates at issue are for work done in 2005 and so the exception provided for in D.05-11-031 is more relevant. Moreover, as was the case in D.07-06-031, we are persuaded by TURN's argument that given his education and experience, Synapse [Steinhurst's employer] could have charged an even higher rate for Steinhurst and still have a Commission finding of reasonableness. (D.07-06-031 at 20.) However, irrespective of Steinhurst's impressive credentials, we believe that experience gained by practicing at the California Public Utilities Commission allows even the most experienced practitioner to better contribute to our decision making process. In short, we believe Steinhurst's 2006 work benefitted from the work he did with us in 2005 and that this improvement should be reflected in his hourly rate. With these considerations in mind, we find an hourly rate of \$175 per hour for 2005 to be reasonable for Steinhurst.

Consultant	Work Year	Rate	Reference
William Steinhurst	2004	\$150	D.06-06-057
	2005	\$175	Approved
	2006	\$180	D.07-06-031

6.3. Direct Expenses

TURN seeks reimbursement for direct expenses as follows:

Consultant Travel	\$1,290.27
Consultant Lodging	\$732.88
Photocopying Expenses	\$719.07
Auto, Parking and Tolls	\$371.50
Postage	\$43.47
Phone & Fax	\$85.22
<i>Subtotal</i>	<i>\$3,242.41</i>

This amount includes reimbursements for TURN's work on the Mohave alternatives/Complements Study as follows:

Parking	\$20.00
Airport shuttle	\$45.00
Airfare	\$374.40
Lodging	\$197.93
<i>Total</i>	<i>\$637.33</i>

As we are denying TURN's compensation request for work on the Mohave Alternatives/Complements Study (without prejudice), we will not include the direct expenses associated with this work the amount of \$637.33 in TURN's compensation award. We also disallow travel expenses related to Marcus's travels to and from San Francisco, as follows: \$194.00 (mileage) in R.04-04-003; and \$205.25 (mileage) and \$37.90 (parking and tolls) in R.04-04-025. The remaining amount of \$2,167.93 is consistent with the total amount of TURN's claim and the number of proceedings to which TURN has substantially contributed. We therefore find TURN's requested award, as modified, to be reasonable.

7. Productivity

In D.98-04-059, we directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. (D.98-04-059 at 34-35.) The costs of a customer's participation should

bear a reasonable relationship to the benefits realized through its participation. This showing assists us in determining the overall reasonableness of the request.

TURN's contributions to R.04-04-025 and R.04-04-003 were directed primarily at policy matters, rather than the establishment of specific rates, funding levels, or disputes over particular dollar amounts. For example, TURN's efforts in Phase 1 and the 2006 Update Phase of this proceeding focused on ensuring that the avoided costs associate with energy efficiency programs are fairly and accurately valued, so as to promote the use of energy efficiency instead of more costly supply side resources. Thus TURN's participation benefited ratepayers because the establishment of energy efficiency policies can have a direct and lasting impact on customer rates.

While TURN appears to concede that it cannot identify precise monetary benefits to ratepayers, TURN claims its focus on policies will promote long-term rate stability, reduce risks to ratepayers and contribute to resource diversity that should help to mitigate the impact of future market dysfunction and have lasting benefits to ratepayers. We agree that appropriate energy efficiency and integrated resource planning policies practices will be essential to maintaining both low and stable rates. We also agree that these policies, improved through TURN's participation, have other social benefits which, though hard to quantify, are substantial. Thus, we find that TURN's efforts have been productive.

8. Award

As set forth below, we award TURN \$233,525.51:

Attorney/Staff Work on D.06-02-032 (R.04-04-003)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel P. Florio	2005	2.50	\$470	\$1,175.00
Michel P. Florio	2006	0.75	\$485	\$363.75
Robert Finkelstein	2005	2.50	\$395	\$987.50
Marcel Hawiger	2005	.75	\$270	\$202.50
Marcel Hawiger	2006	3.00	\$280	\$840.00
Matthew Freedman	2005	7.50	\$270	\$2,025.00
Matthew Freedman	2006	10.75	\$280	\$3,010.00
Hayley Goodson	2004	.25	\$190	\$47.50
Hayley Goodson	2005	39.00	\$190	\$7,410.00
Hayley Goodson	2006	3.50	\$195	\$682.50
Nina Suetake	2005	44.00	\$190	\$8,360.00
William Marcus	2005	1.33	\$210	\$279.30
William Steinhurst	2005	17.75	\$175	\$3,106.25
Bruce Biewald	2005	4.50	\$180	\$810.00
Cynthia Mitchell	2004	1.00	\$115	\$115.00
Cynthia Mitchell	2005	64.50	\$140	\$9,030.00
<i>Subtotal</i>		203.58		\$38,444.30

Attorney/Staff Work on D.05-12-022 (R.04-04-003)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel P. Florio	2005	8.25	\$470	\$3,877.50
Robert Finkelstein	2005	.50	\$395	\$197.50
<i>Subtotal</i>		8.75		\$4,075.00

Attorney/Staff Work on D.06-07-032 (R.04-04-003)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel P. Florio	2006	5.75	\$485	\$2,788.75
Matthew Freedman	2006	1.75	\$280	\$490.00
<i>Subtotal</i>		7.50		\$3,278.75

Attorney/Staff Work on D.07-09-040 (R.04-04-003)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel P. Florio	2004	5.75	\$470	\$2,702.50
Michel P. Florio	2005	76.50	\$470	\$35,955.00
Michel P. Florio	2006	52.50	\$485	\$25,462.50
Michel P. Florio	2007	43.25	\$520	\$22,490.00
Robert Finkelstein	2005	.25	\$395	\$98.75
Matthew Freedman	2004	7.50	\$270	\$2,025.00
Matthew Freedman	2006	3.75	\$280	\$1,050.00
Hayley Goodson	2006	1.25	\$195	\$243.75
William Marcus	2004	4.33	\$195	\$844.35
William Marcus	2005	25.17	\$210	\$5,285.70
William Marcus	2006	8.50	\$220	\$1,870.00
William Marcus	2007	1.17	\$235	\$274.95
Greg Ruzzovan	2005	13.05	\$155	\$2,022.75
Kevin Woodruff	2004	9.00	\$200	\$1,800.00
Kevin Woodruff	2005	6.50	\$200	\$1,300.00
<i>Subtotal</i>		258.47		\$103,425.25

Attorney/Staff Work on D.08-07-048 (R.04-04-003)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel P. Florio	2007	2.75	\$520	\$1,430.00
<i>Subtotal</i>		2.75		\$1,430.00

Attorney/Staff Work on D.08-09-024 (R.04-04-003)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel P. Florio	2007	21.75	\$520	\$11,310.00
Michel P. Florio	2008	10.50	\$535	\$5,617.50
<i>Subtotal</i>		32.25		\$16,927.50

Attorney/Staff Work Mohave - MACS (R.04-04-003)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
James Helmich	2005	00.00	\$160	\$0.00
<i>Subtotal</i>		00.00		\$0.00

Preparation of NOI and Compensation Request (R.04-04-003)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel P. Florio	2007	3.00	\$260.00	\$780.00
Michel P. Florio	2008	21.75	\$267.50	\$5,818.12
Nina Suetake	2008	4.00	\$112.50	\$450.00
<i>Subtotal</i>		28.75		\$7,048.12

Expenses	
Consultant Travel	\$211.90
Photocopying Expenses	\$565.20
Auto, Parking and Tolls	\$217.10
Postage	\$41.34
Phone & Fax	\$85.22
<i>Subtotal</i>	\$1,120.76
<i>Total Award for R.04-04-003</i>	\$175,749.69

Attorney/Staff Work on D.05-04-024 (R.04-04-025)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel P. Florio	2004	9.25	\$470	\$4,347.50
Michel P. Florio	2005	0.75	\$470	\$352.50
Hayley Goodson	2004	.50	\$190	\$95.00
Hayley Goodson	2005	2.75	\$190	\$522.50
William Marcus	2004	19.50	\$195	\$3,802.50
Jeff Nahigian	2004	4.25	\$140	\$595.00
Cynthia Mitchell	2004	18.00	\$115	\$2,070.00
Cynthia Mitchell	2005	4.50	\$140	\$630.00
Nina Suetake	2004	1.50	\$190	\$285.00
<i>Subtotal</i>		61.00		\$12,700.00

Attorney/Staff Work on D.06-06-063 (R.04-04-025)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel P. Florio	2006	.50	\$485	\$242.50
Marcel Hawiger	2005	1.75	\$270	\$472.50
Hayley Goodson	2005	9.25	\$190	\$1,757.50
Hayley Goodson	2006	57.25	\$195	\$11,163.75
William Marcus	2006	21.42	\$220	\$4,712.40
Cynthia Mitchell	2005	28.00	\$140	\$3,920.00
Cynthia Mitchell (travel)	2005	3.00	\$70	\$210.00
Cynthia Mitchell	2006	99.00	\$140	\$13,860.00
Cynthia Mitchell (travel)	2006	3.00	\$70	\$210.00
<i>Subtotal</i>		223.17		\$35,548.65

Attorney/Staff Work on D.08-01-006 (R.04-04-025)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Hayley Goodson	2007	7.25	\$210	\$1,522.50
Cynthia Mitchell	2007	6.25	\$140	\$875.00
<i>Subtotal</i>		13.50		\$2,397.50

Preparation of NOI and Compensation Request (R.04-04-025)				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel Florio	2004	1.00	\$235	\$235.00
Hayley Goodson	2007	3.50	\$105	\$367.50
Hayley Goodson	2008	32.00	\$140	\$4,480.00
<i>Subtotal</i>		36.50		\$5,082.50

Expenses	
Consultant Travel	\$259.72
Consultant Lodging	\$534.95
Photocopying Expenses	\$153.87
Auto, Parking and Tolls	\$96.50
Postage	\$2.13
<i>Subtotal</i>	\$1,047.17
<i>Total Compensation for R.04-04-025</i>	\$57,775.82

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 on February 4, 2009, the 75th day after TURN filed its compensation request, and continuing until full payment of the award is made.

We direct PG&E, SDG&E, SoCalGas, and SCE to allocate among themselves a responsibility for the payment of the amount of \$57,775.82 awarded in R.04-04-025, based upon their California-jurisdictional gas and electric revenues for the 2005 calendar year, to reflect the year in which the proceeding was primarily litigated.

We direct PG&E, SDG&E, and SCE to allocate among themselves a responsibility for the payment of the amount of \$175,749.69 awarded in R.04-04-003, based upon their California-jurisdictional electric revenues for the 2005 calendar year, to reflect the year in which the proceeding was primarily litigated.

- 9. We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. TURN's records should identify specific issues for which it requested 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. Waiver of Comment Period**

This is an intervenor compensation matter. Accordingly, as provided by Rule 14.6(c)(6) of the Commission's Rules of Practice and Procedure, we waive the otherwise applicable 30-day comment period for this decision.

10. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Mark S. Wetzell and Amy C. Yip-Kikugawa are the assigned ALJs in this proceeding.

Findings of Fact

1. TURN has satisfied all the procedural requirements necessary to claim compensation in this proceeding. TURN made a substantial contribution to D.05-04-024, D.05-12-022, D.06-02-032, D.06-06-063, D.06-07-032, D.07-09-040, D.08-01-006, D.08-07-048, and D.08-09-024 as described herein.
2. TURN's requested hourly rates for its representatives, as adjusted, are reasonable when compared to the market rates for persons with similar training and experience.
3. TURN requested related expenses that, as adjusted, are reasonable and commensurate with the work performed.
4. The total of the reasonable compensation is \$233,525.51.

5. The appendix to this decision summarizes today's award.

Conclusions of Law

1. TURN has fulfilled the requirements of §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its claimed expenses, as adjusted, incurred in making substantial contributions to D.05-04-024, D.05-12-022, D.06-02-032, D.06-06-063, D.06-07-032, D.07-09-040, D.08-01-006, D.08-07-048, and D.08-09-024.
2. TURN should be awarded \$233,525.51 for its contributions in R.04-04-003 and R.04-04-025.
3. This order should be effective today so that TURN may be compensated without further delay.

O R D E R

IT IS ORDERED that:

1. The Utility Reform Network is awarded the total amount of \$233,525.51, consisting of the intervenor compensation of \$175,749.69 for substantial contributions to R.04-04-003 decisions D.06-02-032, D.05-12-022, D.06-07-032, D.07-09-040, D.08-07-048, and D.08-09-024, and of the intervenor compensation of \$57,775.82 for substantial contributions to R.04-04-025 decisions D.05-04-024, D.06-06-063, and D.08-01-006.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company shall pay The Utility Reform Network their respective shares of the awarded amount of \$175,749.69. We direct Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company to allocate payment responsibility among themselves, based on their

California-jurisdictional electric revenues for the 2005 calendar year, to reflect the year in which the proceeding was primarily litigated. 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 February 4, 2009, the 75th day after the filing date of The Utility Reform Network's request for compensation, and continuing until full payment is made.

3. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southern California Edison Company shall pay The Utility Reform Network their respective shares of the awarded amount of \$57,775.82. We direct Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southern California Edison Company to allocate payment responsibility among themselves, based on their California-jurisdictional electric and gas revenues for the 2005 calendar year, to reflect the year in which the proceeding was primarily litigated. 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 February 4, 2009, the 75th day after the filing date of The Utility Reform Network's request for compensation, and continuing until full payment is made.

4. Rulemaking (R.) 04-04-003 and R.04-04-025 remain open.

This order is effective today.

Dated December 17, 2009, at San Francisco, California.

MICHAEL R. PEEVEY
President

DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:	D0912040	Modifies Decision? No
Contribution Decision(s):	In R0404003: D0512022, D0602032, D0607032, D0709040, D0807048, D0809024; In R0404025: D0504024, D0606063, D0801006	
Proceeding(s):	R.0404003; R0404025	
Author:	Wetzell/ Yip-Kikugawa	
Payer(s):	In R0404003: Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company. In R0404025: Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southern California Edison Company.	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	11/21/08	\$246,368.73	\$233,525.51	No	Miscalculations, no compensation for on-going work on Mohave MACS study; adjusted hourly rate, routine travel non-compensable.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Michel	Florio	Attorney	The Utility Reform Network	\$470	2004	\$470
Michel	Florio	Attorney	The Utility Reform Network	\$470	2005	\$470
Michel	Florio	Attorney	The Utility Reform Network	\$485	2006	\$485

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Michel	Florio	Attorney	The Utility Reform Network	\$520	2007	\$520
Michel	Florio	Attorney	The Utility Reform Network	\$535	2008	\$535
Robert	Finkelstein	Attorney	The Utility Reform Network	\$395	2005	\$395
Marcel	Hawiger	Attorney	The Utility Reform Network	\$270	2005	\$270
Marcel	Hawiger	Attorney	The Utility Reform Network	\$280	2006	\$280
Matthew	Freedman	Attorney	The Utility Reform Network	\$270	2004	\$270
Matthew	Freedman	Attorney	The Utility Reform Network	\$270	2005	\$270
Matthew	Freedman	Attorney	The Utility Reform Network	\$280	2006	\$280
Hayley	Goodson	Attorney	The Utility Reform Network	\$190	2004	\$190
Hayley	Goodson	Attorney	The Utility Reform Network	\$190	2005	\$190
Hayley	Goodson	Attorney	The Utility Reform Network	\$195	2006	\$195
Hayley	Goodson	Attorney	The Utility Reform Network	\$210	2007	\$210
Hayley	Goodson	Attorney	The Utility Reform Network	\$280	2008	\$280
Nina	Suetake	Attorney	The Utility Reform Network	\$190	2004	\$190
Nina	Suetake	Attorney	The Utility Reform Network	\$190	2005	\$190
Nina	Suetake	Attorney	The Utility Reform Network	\$225	2008	\$225
William	Marcus	Consultant	The Utility Reform Network	\$195	2004	\$195
William	Marcus	Consultant	The Utility Reform Network	\$210	2005	\$210
William	Marcus	Consultant	The Utility Reform Network	\$220	2006	\$220

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
William	Marcus	Consultant	The Utility Reform Network	\$235	2007	\$235
William	Steinhurst	Policy Expert	The Utility Reform Network	\$180	2005	\$175
Greg	Ruszovan	Consultant	The Utility Reform Network	\$155	2005	\$155
Kevin	Woodruff	Consultant	The Utility Reform Network	\$200	2004	\$200
Kevin	Woodruff	Consultant	The Utility Reform Network	\$200	2005	\$200
Bruce	Biewald	Consultant	The Utility Reform Network	\$180	2005	\$180
Cynthia	Mitchell	Consultant	The Utility Reform Network	\$115	2004	\$115
Cynthia	Mitchell	Consultant	The Utility Reform Network	\$140	2005	\$140
Cynthia	Mitchell	Consultant	The Utility Reform Network	\$140	2006	\$140
Cynthia	Mitchell	Consultant	The Utility Reform Network	\$140	2007	\$140

(END OF APPENDIX)