

Decision 06-06-057 June 29, 2006

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application Pacific Gas and Electric Company  
(U 39 E) for authority to increase revenue  
requirements to recover the costs to replace steam  
generators in Units 1 and 2 of the Diablo Canyon  
Power Plant.

Application 04-01-009  
(Filed January 9, 2004)

**OPINION GRANTING INTERVENOR COMPENSATION TO THE UTILITY  
REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTIONS  
TO DECISION 05-02-052 AND DECISION 05-11-026**

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**OPINION GRANTING INTERVENOR COMPENSATION TO THE UTILITY  
REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTIONS  
TO DECISION 05-02-052 AND DECISION 05-11-026**

This decision awards The Utility Reform Network (TURN) \$106,689.35 in compensation for its substantial contributions to Decision (D.) 05-02-052 and D.05-11-026. This is a decrease of \$63,099.70 from the amount requested. This proceeding is closed.

**1. Background**

Diablo Canyon Power Plant (Diablo) is a nuclear power plant owned and operated by Pacific Gas and Electric Company (PG&E) consisting of two units, Unit 1 and Unit 2, with a capacity of approximately 2,260 megawatts (MW). Each unit has four steam generators manufactured by Westinghouse Electric Corporation (Westinghouse). In each steam generator, the heat from water circulated through the reactor is used to turn another stream of water into steam that is used to run the turbines that drive the electric generators.

Diablo is currently licensed by the Nuclear Regulatory Commission (NRC) to operate until 2024 (Unit 1) and 2025 (Unit 2).<sup>1</sup> PG&E estimated that Diablo will likely shut down because of the degradation of the steam generators in 2013 (Unit 2) and 2014 (Unit 1). As a result, PG&E requested approval in this application for its steam generator replacement program (SGRP).

Hearings were held from September 20 through October 1, 2004. The application was submitted upon the receipt of reply briefs on November 9, 2004.

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<sup>1</sup> This assumes recapture of the approximately three years of operating license for Unit 1 consumed prior to fuel loading and full-power operation. PG&E forecasts an 80% probability of NRC approval of its request for recapture.

On February 24, 2005, the Commission adopted D.05-02-052, an interim decision which presented the Commission's preliminary findings as to the cost-effectiveness of the SGRP. The proceeding remained open to consider the results of the environmental review pursuant to the California Environmental Quality Act (CEQA). On November 18, 2005, the Commission adopted D.05-11-026, which approved the SGRP with specified conditions, and certified the Final Environmental Impact Report (Final EIR) pursuant to CEQA.

## **2. Requirements for Awards of Compensation**

The intervenor compensation program, enacted in Pub. Util. Code §§ 1801-1812, 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 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).

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

### **3. Procedural Issues**

The first prehearing conference in this matter was held on February 27, 2004. TURN timely filed its NOI on March 29, 2004. In its NOI, TURN asserted financial hardship.

Section 1802(b) (1) defines a customer as:

- (A) A participant representing consumers, customers, or subscribers of any electrical, gas, telephone, telegraph, or water corporation that is subject to the jurisdiction of the commission.
- (B) A representative authorized by a customer.
- (C) A representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers, or to represent small commercial customers who receive bundled electric service from an electric corporation.

In this case, TURN is a customer as defined in § 1802 (b)(1)C) because it is authorized pursuant to its bylaws to represent the interests of consumers, a portion of whom are residential customers.

On April 15, 2004, Administrative Law Judge (ALJ) O'Donnell ruled that TURN is a customer pursuant to § 1802(b)(1)(C), and meets the financial hardship condition pursuant to § 1802(g). TURN filed its request for compensation on January 20, 2006, within 60 days of D.05-11-026 being issued.<sup>2</sup> In view of the above, we find TURN has satisfied all the procedural requirements necessary to make its request for compensation.

#### **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 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.<sup>3</sup>

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<sup>2</sup> No party opposes the request.

<sup>3</sup> D.98-04-059, 79 CPUC2d, 628 at 643.

Should the Commission 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. 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 in mind, we turn to the contributions TURN claims it made to the proceeding.

TURN allocated its hours to five categories, rather than individual issues. Category 1, General, includes hours spent on such things as review of the application and rulings, initial review of testimony and pleadings, and attending the prehearing conference and evidentiary hearings. Category 2, Westinghouse, includes hours spent addressing the reasonableness of PG&E's actions regarding Westinghouse Electric Corporation (Westinghouse). Category 3, Rate, includes hours spent on ratemaking treatment, standards for rate recovery, and proposals for guaranteed savings. Category 4, Cost-Effectiveness, includes hours spent evaluating of the cost-effectiveness of the SGRP, and the need to replace the steam generators. Lastly, Category 5, Compensation Request, includes hours spent on preparation of the intervenor compensation request. We will address whether TURN made substantial contributions regarding Categories 2, 3 and 4. Categories 1 and 5 do not relate to specific issues or recommendations.

#### **4.1 Category 2, Westinghouse**

TURN alleged that PG&E should have filed a law suit against Westinghouse regarding the original steam generators and recommended a disallowance of \$56-70 million. The Commission determined that the question of whether PG&E should be ordered to file a suit against Westinghouse was moot. The Commission also determined that if PG&E had filed suit in the past and

received something from Westinghouse as a result, the appropriate result would be a reduction to ratebase, or future operations and maintenance expenses (O&M). The Commission determined that it was precluded from making an adjustment to the rate base for the original steam generators by D.03-12-035. The Commission also found that future O&M expenses were beyond the scope of this proceeding except as they relate to the cost-effectiveness of the SGRP, and inclusion of an O&M reduction would not adversely affect the cost-effectiveness of the SGRP. In addition, the Commission found that such a suit would not affect the need for, or the cost of, the SGRP. Therefore, TURN's recommendation was not adopted.

This issue was not critical to the determination of whether the SGRP should be approved. Indeed, since TURN opposed the SGRP unless savings were guaranteed to ratepayers, adoption of its recommendations would have improved the cost-effectiveness of the SGRP, thus undermining its position. Therefore, we find TURN did not make a substantial contribution regarding this category.

#### **4.2 Category 3, Rate**

- **Reasonableness Review**

PG&E requested authority to recover the costs, up to \$706 million, without further reasonableness review. TURN recommended that the Commission should conduct a reasonableness review of the SGRP regardless of the resulting actual costs. The decision stated the Commission's intention not to require a reasonableness review if SGRP costs do not exceed \$706 million. However, the Commission made the entire project cost subject to a reasonableness review if the project costs exceed \$706 million, or the Commission later finds that it has reason to believe the project costs may be unreasonable regardless of the amount.



Therefore, TURN's recommendation was adopted in major part, and we find TURN made a substantial contribution regarding this recommendation.

- **Aglet Consumer Alliance (Aglet)  
Proposal of Guaranteed Savings**

TURN generally supported Aglet's proposal of guaranteed savings as an alternative to implementing its recommendations regarding the cost-effectiveness analysis.<sup>4</sup> Aglet's proposal was not adopted, and we find that TURN did not make a substantial contribution regarding this recommendation.

- **Comments on the Proposed  
Interim Decision**

In its comments on the proposed interim decision, TURN requested that the customers who are currently on bundled service, and who subsequently leave for direct access be required to pay any stranded costs associated with the SGRP for no less than the first ten years after the SGRP is completed. TURN's recommendation was not adopted, and we find that TURN did not make a substantial contribution regarding this recommendation.

Overall, we find TURN made a substantial contribution regarding one of its three recommendations in this category.

#### **4.3 Category 4, Cost-Effectiveness**

- **Need for the SGRP**

TURN recommended that if the SGRP is approved for Diablo, and also approved for San Onofre Nuclear Generating Station in Application (A.) 04-02-026, the Commission should have a consolidated phase of both proceedings to determine whether the risks of capacity shortages, when compared to the costs of project delays, warrant a change in the steam generator

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<sup>4</sup> Aglet was an intervenor in this proceeding.

replacement schedule for one or both facilities. This recommendation was not adopted.

TURN represented that the statutory prohibition on customers leaving bundled service will expire before 2014, and that the lifting of this prohibition could lead to the reduction of bundled loads served by PG&E. Therefore, TURN recommended that PG&E should be ordered to change its model inputs accordingly. This recommendation was not adopted.

- **PG&E's Cost-Effectiveness Model**

TURN performed cost-effectiveness calculations using its model that yielded results generally similar to PG&E's model when similar inputs were used. The Commission relied on these model runs, in part, to reach its conclusion that PG&E's model was appropriate for use in this proceeding. Therefore, TURN's modeling was adopted in part.

- **Cost of the SGRP**

TURN recommended the Commission review the results of all bids received for the procurement and installation contracts to determine the reasonableness of PG&E's cost estimates. This recommendation was not adopted.

TURN opposed the use of PG&E's cost estimate as an assumed reasonable cost. This recommendation was not adopted. However, TURN recommended consideration of a higher SGRP cost in the cost-effectiveness analysis. This recommendation was adopted.

- **Operations and Maintenance (O&M) Costs**

TURN recommended that the O&M costs should have an escalation rate 1% or 2% higher than that used by PG&E. This recommendation was adopted.

- **Capital Additions**

TURN stated that PG&E's base capital additions amount was not sufficient, and supported Aglet's proposal for an increase. Aglet's proposal was adopted for the years after 2015.

TURN asserted that \$117 million in capital expenditures associated with a low-pressure turbine rotor replacement project be included in the cost-effectiveness analysis. This recommendation was not adopted.

- **Extended Outage**

TURN recommended a one-year outage be included in the cost-effectiveness analysis for the period after the replacement of the steam generators. This recommendation was not adopted for the Commission's base case on which the cost-effectiveness was decided. However, it was adopted for the purpose of testing the sensitivity of the SGRP's cost-effectiveness to such an outage.

- **Capacity Factor**

TURN recommended consideration of a low-case assumption of a 75-85% capacity factor in the cost-effectiveness evaluation. This recommendation was not adopted for the Commission's base case on which the cost-effectiveness was decided. However, it was adopted, in part, for the purpose of testing the sensitivity of the SGRP's cost-effectiveness to reduced capacity factors.

- **Replacement Energy Prices**

TURN recommended the use of a lower gas price forecast. The Commission included TURN's recommended gas price forecast as one of the forecasts used in its cost-effectiveness evaluation. Thus, this recommendation was adopted in part.

TURN recommended a 30-year combined cycle generation facility life for use in this proceeding. This recommendation was adopted.

TURN recommended a different wind power cost than used by PG&E. This recommendation was not adopted.

- **Recovery of Capital Costs in the Event of an Early Shutdown**

TURN recommended, in the event of an early shutdown of Diablo, the ratemaking treatment of capital costs adopted in D.92-08-036 and D.85-08-046 be used. This recommendation was not adopted.

- **License Recapture**

TURN observed that PG&E's cost-effectiveness analysis failed to consider the possibility that the NRC would not extend the Unit 1 license life as assumed by PG&E, and recommended that this error be corrected. The Commission found PG&E's analysis did address this possibility. This recommendation was not adopted.

- **The Risk of a Nuclear Accident and the Resulting Shared Costs**

TURN represented that PG&E's cost-effectiveness analysis failed to consider the risk of a nuclear accident and the resulting shared costs. The Commission did not adopt this representation.

TURN was the only party to address this category comprehensively. TURN addressed almost every issue related to cost-effectiveness and, though it did not prevail on every issue, contributed substantially to the development of the record and the Commission's decisions regarding this category. We find TURN made a substantial contribution regarding this entire category.

## 5. Reasonableness of Requested Compensation

TURN initially requested \$169,789.05 for its participation in this proceeding. After correction of errors in its calculations, TURN's request amounts to the following:

### Requested Compensation

#### Attorney Fees:

Mathew Freedman	331.25 hours @ \$270/hr =	\$89,437.50
Robert Finkelstein	5.75 hours @ \$395/hr =	\$2,271.25
Michael P. Florio	1.5 hours @ \$470/hr =	\$705.00

#### Attorney Fees for preparing Intervenor Compensation Request:<sup>5</sup>

Mathew Freedman	12.50 hours @ \$135/hr =	\$1,687.50
Robert Finkelstein	2.50 hours @ \$197.50/hr =	\$493.75

#### Expert Consultant Fees:

David Schlissel	320.00 hours @ \$180/hr =	\$57,600.00
Jennifer Schlissel	22.00 hours @ \$65/hr =	\$1,430.00
William Marcus	44.33 hours @ \$195/hr =	\$8,644.35
William Steinhurst <sup>6</sup>	1.50 hours @ \$150/hr =	\$225.00

Expenses		<u>\$5,742.20</u>
Total		\$168,236.55

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.

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<sup>5</sup> Billed at half the hourly rate.

<sup>6</sup> Steinhurst's hours were included in David Schlissel's hours in TURN's request.

### **5.1 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 spent by each attorney or consultant, accompanied by a brief description of each activity. The hourly breakdown reasonably documents the total hours spent.

TURN allocated its hours to five categories discussed above as follows:

#### Requested Hours

##### General:

Freedman	136.00 hours
Finkelstein	5.75 hours
Florio	.50 hours
David Schlissel	71.00 hours

##### Westinghouse:

Freedman	89.60 hours
Florio	.45 hours
David Schlissel	156.03 hours
Jennifer Schlissel	3.00 hours
Steinhurst	1.13 hours

##### Rate:

Freedman	43.20 hours
Florio	.15 hours
David Schlissel	10.82 hours
Steinhurst	.08 hours

Cost-Effectiveness:

Freedman	51.45 hours
Florio	.40 hours
David Schlissel	92.10 hours
Jennifer Schlissel	9.00 hours
Marcus	44.33 hours
Steinhurst	.30 hours

Compensation Request:

Freedman	12.00 hours
Finkelstein	2.50 hours

Since TURN did not make a substantial contribution regarding Category 2, we will not award compensation for the hours related to this category. Since TURN made a substantial contribution regarding one of the three issues it addressed Category 3, we will award compensation for one third of the hours allocated to this category. Since we find that TURN made a substantial contribution regarding Category 4, we will award compensation for all of the hours allocated to this category.

The hours TURN allocated to Category 1, General, were spent on the initial review of the application, discovery, attending the prehearing conference, and reviewing the nondisclosure agreement utilized in this proceeding for confidential materials. These activities were necessary for participation in the proceeding regardless of the issues addressed. The claimed hours are reasonable given the scope of TURN's participation in this proceeding. Since TURN made a substantial contribution as discussed above, we will award compensation for these hours.

The hours TURN allocated to Category 5 were spent preparing its intervenor compensation claim. The claimed hours are reasonable given the



scope of this proceeding. Since TURN made a substantial contribution as discussed above, we will award compensation for these hours.

For the reasons discussed above, the hours for which we award compensation are as follows:

Award Hours

General:

Freedman	136.00 hours
Finkelstein	5.75 hours
Florio	.50 hours
David Schlissel	71.00 hours

Rate:

Freedman	14.40 hours
Florio	.05 hours
David Schlissel	3.18 hours
Steinhurst	.02 hours

Cost-Effectiveness:

Freedman	62.45 hours
Florio	.40 hours
David Schlissel	88.60 hours
Jennifer Schlissel	9.00 hours
Marcus	44.33 hours
Steinhurst	.30 hours

Compensation Request:

Freedman	12.50 hours
Finkelstein	2.50 hours

## **5.2 Market Rate Standard**

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 an hourly rate of \$270 for work performed by Freedman in 2004 and 2005. We previously approved this rate for Freedman in D.05-06-049 for 2004 work, and find it reasonable for 2004 and 2005. A small number of hours in early 2006 were also charged at half this rate for preparation of the intervenor compensation request. As TURN did in its request, we treat these hours at the 2005 rate.

TURN seeks an hourly rate of \$395 for work performed by Finkelstein in 2004 and 2005. We previously approved this rate for Finkelstein in D.05-04-049 for 2004 work, and find it reasonable for 2004 and 2005.

TURN seeks an hourly rate of \$470 for work performed by Florio in 2004 and 2005. We previously approved this rate for Florio in D.05-01-029 for 2004 work, and find it reasonable for 2004 and 2005.

TURN seeks an hourly rate of \$195 for work performed by Marcus in 2004. We previously approved this rate for Marcus in D.05-03-016 for 2004 work, and find it reasonable for 2004. A small number of hours in early 2005 were also charged at this rate. As TURN did in its request, we treat these hours at the 2004 rate.

TURN seeks an hourly rate of \$180 for work performed by David Schlissel in 2004. TURN represents that David Schlissel has more than 26 years experience as a consultant, expert witness and attorney on complex management, engineering and economic issues, primarily relating to energy and the environment. TURN states he has presented testimony in more than 70 cases

before regulatory agencies in 21 states, two federal regulatory agencies and state and federal courts, and holds BS and MS degrees in astronautical engineering and a Juris Doctor degree in law. He has also studied nuclear engineering and project management. TURN argues that David Schlissel should be compared to the top of the intervenor and utility experts appearing before the Commission. In D.05-11-031, we approved a range for intervenor experts of \$110-360. Given his education and experience, we find a rate of \$180 reasonable David Schlissel for 2004.

TURN seeks an hourly rate of \$150 for work performed by William Steinhurst in 2004. TURN represents that Steinhurst has more than 20 years experience at the Vermont Department of Public Service where he served as Planning Econometrician from 1981-1986, and as Director for Regulated Utility Planning form 1986-2003. He then joined Synapse Energy Economics where he is currently employed. TURN states that he has presented testimony in more than 30 cases before regulatory agencies, and holds B.A. in physics, an M.S. in statistics and PhD in Mechanical Engineering. TURN argues that Steinhurst should be compared to the top of the intervenor and utility experts appearing before the Commission. In D.05-11-031, we approved a range for intervenor experts of \$110-360. Given his education and experience, we find a rate of \$150 reasonable for Steinhurst for 2004.

TURN seeks an hourly rate of \$65 for work performed by Jennifer Schlissel in 2004. TURN represents that Jennifer Schlissel is a college graduate, was employed as a research assistant during the time she worked on this proceeding, and is currently employed as a litigation legal assistant. TURN argues that it was granted an hourly rate of \$85 for paralegal work in 2001 by D.05-12-038, and that \$65 is a reasonable rate given Jennifer Schlissel's qualifications. The rate

requested by TURN is less than that previously granted for paralegals in 2001. Therefore, we find a rate of \$65 reasonable for 2004.

### **5.3 Productivity**

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.

This proceeding did not set rates, and no direct dollar amount benefit from an intervenor's participation can be identified. The SGRP will cost ratepayers hundreds of millions of dollars over the remaining license lives of Diablo.<sup>7</sup> The purpose of this proceeding was to determine whether the SGRP should proceed. TURN made a substantial contribution to that determination. TURN's expenditures, given its substantial contribution to the Commission's analysis of risks and benefits, are miniscule in comparison to the SGRP costs. Therefore, we find TURN's participation was productive.

### **5.4 Direct Expenses**

The itemized direct expenses submitted by TURN include costs for: travel, copying, postage, and telephone, and total \$5,742.20. These expenses are commensurate with the work performed, and we find them reasonable.

## **6. Award**

As set forth in the table below, we award TURN \$106,689.35.

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<sup>7</sup> Since the end of the operating licenses for each unit is different, the remaining life for each unit is different.

AwardPersonnel Hours:

Freedman	212.85 hours @	\$270/hr =	\$57,469.11
Finkelstein	5.75 hours @	\$395/hr =	\$2,271.25
Florio	.95 hours @	\$470/hr =	\$446.50
David Schlissel	62.78 hours @	\$180/hr =	\$29,300.94
Jennifer Schlissel	9.00 hours @	\$65/hr =	\$585.00
Marcus	44.33 hours @	\$195/hr =	\$8,644.35
Steinhurst	.32 hours @	\$150/hr =	\$48.75

Compensation Request Hours:

Freedman	12.50 hours @	\$135/hr =	\$1,687.50
Finkelstein	2.50 hours @	\$197.50/hr =	\$493.75

Expenses: \$5,742.20

Total Award \$106,689.35

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 filed its compensation request and continuing until full payment of the award is made. The award is to be paid by PG&E, the applicant in this proceeding.

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 records must identify specific issues for which it requested compensation, the actual time spent by each employee or consultant, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation was claimed.

## **7. Waiver of Comment Period**

This is an intervenor compensation matter. Accordingly, as provided by Rule 77.7(f)(6) of our Rules of Practice and Procedure, we waive the otherwise applicable 30-day comment period for this decision.

## **8. Assignment of Proceeding**

Geoffrey F. Brown is the Assigned Commissioner, and Jeffrey P. O'Donnell is the assigned ALJ in this proceeding.

## **Findings of Fact**

1. TURN has satisfied all the procedural requirements necessary to claim compensation in the proceeding.
2. TURN made a substantial contribution to D.05-02-052 and D.05-11-026 as described herein.
3. TURN requested hourly rates that are reasonable when compared to the market rates for persons with similar training and experience.
4. The total of the reasonable compensation is \$106,689.35.
5. The appendix to this opinion summarizes today's award.

## **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 claimed compensation, as adjusted herein, incurred in making substantial contributions to D.05-02-052 and D.05-11-026.
2. TURN should be awarded \$106,689.35 for its contributions to D. 05-02-052 and D.05-11-026.
3. Per Rule 77.7(f)(6), the comment period for this compensation decision may be waived.

4. This order should be effective today so that TURN may be compensated without further delay.

5. This proceeding should be closed.

## **O R D E R**

### **IT IS ORDERED** that:

1. The Utility Reform Network (TURN) is awarded \$106,689.35 as compensation for its substantial contributions to Decision (D.) 05-02-052 and D.05-11-026.

2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company shall pay TURN the total award. 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 April 5, 2006, the 75<sup>th</sup> day after the filing date of TURN's request for compensation, and continuing until full payment is made.

3. The comment period for today's decision is waived.

4. Application 04-01-009 is closed.

This order is effective today.

Dated June 29, 2006, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
GEOFFREY F. BROWN  
JOHN A. BOHN  
RACHELLE B. CHONG  
Commissioners

Commissioner Dian M. Grueneich recused herself from this agenda item and was not part of the quorum in its consideration.





**APPENDIX****Compensation Decision Summary Information**

<b>Compensation Decision:</b>	D0606057	<b>Modifies Decision?</b> N
<b>Contribution Decision(s):</b>	D0502052 and D0511026	
<b>Proceeding(s):</b>	A0401009	
<b>Author:</b>	ALJ O'Donnell	
<b>Payer(s):</b>	Pacific Gas and Electric Company	

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/Disallowance</b>
TURN	1/20/06	\$169,789.05	\$106,689.35	N	Failure to make substantial contribution

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Mathew	Freedman	Attorney	TURN	\$270	2004-5	\$270
Robert	Finkelstein	Attorney	TURN	\$395	2004-5	\$395
Michael	Florio	Attorney	TURN	\$470	2004-5	\$470
David	Schlissel	Policy Expert	TURN	\$180	2004	\$180
William	Marcus	Economist	TURN	\$195	2004	\$195
Jennifer	Schlissel	Research Assistant	TURN	\$65	2004	\$65
William	Steinhurst	Economist /Engineer	TURN	\$150	2004	\$150

**(END APPENDIX)**