

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Establish
Policies and Cost Recovery Mechanisms for
Generation Procurement and Renewable
Resource Development.

Rulemaking 01-10-024
(Filed October 25, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING ON
THE UTILITY REFORM NETWORK NOTICE OF INTENT
TO CLAIM COMPENSATION**

On August 22, 2005, The Utility Reform Network (TURN) filed an Amended Notice of Intent (NOI) to Claim Intervenor Compensation in this rehearing of the Otay Mesa Power Purchase Agreement phase of the proceeding. No responses have been received.

This proceeding, Rulemaking (R.) 01-10-024 has had numerous phases. TURN has previously filed NOIs and Requests for Compensation in phases of this Rulemaking, including the predecessor to this rehearing. The rehearing was ordered following an application for rehearing filed by TURN and the Utility Consumers Action Network (UCAN).

On May 28, 2002, Administrative Law Judge (ALJ) Walwyn ruled that TURN had established its eligibility to claim compensation in R.01-10-024. Pursuant to Rule 76.76 of the Commission's Rules of Practice and Procedure, TURN remains eligible in this rehearing phase of the Rulemaking.

TURN filed the amended NOI to appraise the Commission and parties of the extent of TURN's anticipated participation in the rehearing phase and to provide an estimate of costs.

1. Timely Filing

A prehearing conference (PHC) was held on July 22, 2005. The NOI was filed on August 22, 2005. The NOI was filed within 30 days of the PHC. (§1804(a)(1).) The filing is timely.

2. Customer/Financial Hardship

Since this is a continuation of the Rulemaking in which TURN was previously found to be a customer and to have met the financial hardship requirement, those requirements do not have to be met again.

3. Adequacy of Representation

TURN asserts that it is the only intervenor that will act specifically on behalf of residential and small commercial customers in this rehearing phase of the proceeding. The Commission's Division of Ratepayer Advocates (DRA) is a party, but DRA does not represent the specific interests of small customers.

The Commission has found that participation in Commission proceedings by parties representing the full range of affected interests is important. Such participation assists the Commission in ensuring that the record is fully developed and that each customer group receives adequate representation. (See, for example, Ruling issued July 7, 1999, page 3, in A.98-09-003, et al.) Based on its long history of successful participation before the Commission, it is reasonable to conclude that TURN has knowledge and experience that may support and complement the work of DRA or others. TURN also plans to coordinate, as much as possible, with DRA and other intervenors in order to avoid unnecessary duplication of effort.

5. Nature and Extent of Planned Participation

The NOI must include a statement of the nature and extent of the customer's planned participation as far as it is possible to set out when the NOI is filed. (§1804(a)(2)(A)(i).) TURN states that it estimates that its participation in the rehearing phase will be significant, including conducting relevant discovery, serving testimony, participating in hearings and filing briefs. TURN has a particular interest in the rehearing since it was the application of TURN and UCAN that resulted in the Commission granting rehearing on the Otay Mesa Power Purchase Agreement.

6. Itemized Estimate of Costs of Participation

The NOI must include an itemized estimate of the compensation that the customer expects to request, given the likely duration of the proceeding as it appears at the time the NOI is filed. (§ 1804(a)(2)(A)(ii).) TURN states that it expects to request compensation in the amount of \$121,950:

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|-----------------|---|
| \$ 48,000 | 150 hours of professional time by Matthew Freedman @ \$320/hour |
| 30,000 | 150 hours of consultant time @ \$200/hour |
| 10,500 | 50 hours of consultant time @ \$210/hour |
| 24,750 | 50 hours of professional time by Michael Florio @ \$495/hour |
| 8,700 | 20 hours of professional time by Robert Finkelstein @ \$435/hour |
| <hr/> \$121,950 | Subtotal, compensable time |

TURN states that it will provide time records, expense records and justification for hourly rates in a request for an award of compensation. TURN further states that the actual amount of any future request for compensation will

depend upon the amount of resources TURN ends up devoting to the proceeding, as well as the Commission's ultimate decision in this case. The reasonableness of the 2005 hourly rates requested for TURN's representatives has been addressed in TURN's hourly rate filing in R.04-10-010, and TURN expects the rates represented above to be established in a decision in that proceeding

TURN satisfied the requirement that it include an itemized estimate of the compensation that the customer expects to request, given the likely duration of the proceeding as it appears at the time the NOI is filed.

IT IS RULED that:

1. The Utility Reform Network (TURN) timely filed an amended Notice of Intent to Claim Intervenor Compensation.
2. TURN was previously found to be a customer for the purposes of intervenor compensation (Category 3) in the earlier phase of this proceeding and the finding is still applicable to this rehearing phase.
3. TURN reasonably stated the adequacy of its representation.
4. TURN previously established in an earlier phase of this proceeding by un rebutted presumption that its participation without an award of intervenor compensation would pose a significant financial hardship. The rebuttable presumption is applicable to this rehearing phase.
5. TURN reasonably stated the nature and extent of its planned participation, as far as it is possible to know as of the filing of the Notice of Intent.
6. TURN presents a satisfactory itemization of an estimate of compensation it expects to request. The reasonableness of the hourly rates shall be addressed in the later request for compensation, if any, by TURN.

7. TURN is eligible for an award of intervenor compensation. The exact amount of the award, if any, shall be determined based on the reasonableness of TURN's request for award, and this ruling "in no way ensures compensation." (§ 1804(b)(2).) The Commission may audit the records and books of TURN to the extent necessary to verify the basis of the award. (§ 1804(d).)

Dated March 7, 2006, at San Francisco, California.

/s/ CAROL A. BROWN

Carol A. Brown
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on The Utility Reform Network on all parties of record in this proceeding or their attorneys of record.

Dated March 7, 2006, at San Francisco, California.

/s. JANET V. ALVIAR

Janet V. Alviar

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.