

Decision 84 08 038

AUG 1 1984

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
SOUTHERN CALIFORNIA EDISON COMPANY  
for authority to increase rates  
charged by it for electric service.

Application 83-12-53  
(Filed December 29, 1983)

(See Appendix A for appearances.)

INTERIM OPINION

Finding of Eligibility For Compensation

On March 2, 1984, Toward Utility Rate Normalization (TURN), a party to this proceeding, filed a petition for an order finding it eligible for compensation, pursuant to the Public Utility Regulatory Policies Act (PURPA) and Article 18.5 of the Commission's Rules of Practice and Procedure.

In accordance with Rule No. 76.03, TURN offers the following information in support of its petition.

Financial Hardship

Rule No. 76.05(c)(1) sets forth a three-pronged test for "significant financial hardship." According to TURN, its planned participation in this proceeding meets all three of these tests.

TURN states that it represents an interest--the residential customer class--which would not otherwise be adequately represented in this proceeding. TURN argues that in Decision (D.)91909 (p.10), the Commission noted that its staff represents the broad public interest, which is a compromise of many interests, including that of the utility and all classes of customers. Thus, staff cannot be found to be an adequate representative of the residential class per se. Therefore, according to TURN, there is no other adequate representative of the residential class except TURN.

Also, according to TURN, representation of the residential class is necessary for a fair determination in this proceeding since residential is numerically the largest customer class. TURN submits that the industrial, agricultural, and public entity classes are already well-represented, and the absence of a residential class representative would result in an imbalance in the record of the case.

TURN further contends that absent an award of compensation, residential customers would be unable to effectively participate in this matter, because of inability to afford the necessary fees and costs.

TURN states that it represents the interests of numerous constituent groups, including the Consumer Cooperative of Berkeley, California Legislative Council for Older Americans, and the California Gray Panthers, whose members include individual residential customers of Southern California Edison Company (Edison), as well as citizens of several cities in Edison's service area. TURN notes that the economic interests of these individual members are obviously small in comparison to the costs of effective participation in this proceeding.

TURN's tentative budget estimate for participation in this proceeding is set forth in its petition. TURN notes that, since at the time of filing this request, it was difficult to predict the hours of attorney time and amount of expert witness fees that will be required, the figures presented are a very rough initial estimate.

Also, included in TURN's petition is a summary description of its finances. TURN argues that this summary demonstrates its inability to bear the costs of effective participation in this proceeding and still carry out its many other functions, which include residential consumer representation in numerous other rate

cases before this Commission. TURN notes that in the past few years it has been found to suffer significant financial hardship in several different CPUC proceedings, including most recently in D.83-05-048 in Pacific Gas and Electric (PG&E) A. 82-12-48. TURN contends that as evidenced by the summary description of its finances, its financial hardships are at least as great now as they have been in past years.

PURPA Issues

TURN submits that it is impossible to determine the extent to which it will participate in this case. The following statement of issues must therefore be viewed as preliminary in nature and subject to later modification or addition as the case unfolds. TURN states that its opening brief in the proceeding will contain a full discussion of its final positions on all relevant issues.

TURN intends to participate actively in the areas of marginal cost, revenue allocation, and rate design. In general, TURN takes the position that the costs used for rate design purposes should be short-run marginal costs, as determined by market clearing prices. With respect to revenue allocation, TURN will contend that Edison's proposed residential increase is too large, and that the impacts of baseline implementation should be considered in assigning revenues to customer groups. TURN will further advocate that the residential rate structure should be designed in such a way as to mitigate adverse impacts of baseline on subgroups within the customer class.

Common Legal Representation

TURN sees no need for the designation of a common legal representative in this proceeding. TURN notes that at this point there are no other parties for which such common representation would be appropriate, and this Commission has never in the past seen fit to apply this element of the Rules.

Estimate of Compensation

TURN's estimated budget for the entire proceeding, as well as a subbudget for PURPA issues, is set forth in its petition. On the basis of very rough calculations, TURN believes that \$75,900 represents a fair estimate of the PURPA compensation to which it may be entitled if its positions are adopted in whole or in part by the Commission. TURN's estimate for non-PURPA compensation is \$86,250 for a total of \$162,150 compensation in this proceeding.

Showing of Representation

TURN notes that, as stated previously, it represents the interests of residential customers generally, as well as specific constituent groups including those represented on its Board of Directors. TURN also notes that it represents from time to time, by special designation, the citizens of various cities and counties. TURN agrees that all such representation in this proceeding will be indicated in its opening brief in this case.

TURN's Articles of Incorporation and Bylaws, a current Board of Directors roster and a summary of the organization's previous work are included in its petition.

Discussion

It must be emphasized that what TURN seeks herein is an order finding it eligible for compensation, not any actual monetary award.

Based upon the information set forth in its petition, we conclude that TURN has met all of the requirements of Article 18.5 and Rule 76.03. We conclude that absent the potential to receive compensation, TURN and its constituent consumer class would suffer a significant financial hardship if it were to actively participate in this proceeding to the extent necessary to effectively pursue the issues it intends to raise.

The only response to TURN's request for a Finding of Eligibility was filed by Edison. Edison argues that the Commission should consider the following points in acting upon TURN's request:

- A. The estimated budgets submitted by TURN appear to be excessive; and
- B. At least one of the three cost of service issues being addressed by TURN will be fully addressed by Edison and the Commission staff.

We note Edison's concerns but will defer consideration of these issues until TURN files its Request for Compensation because this opinion only makes a finding of eligibility, not any actual monetary award. Actual compensation can only be sought after a party has made a substantial contribution.

We further note that TURN states it also represents from time to time, by special designation, the citizens of various cities and counties. TURN, in its filing for compensation should provide an updated summary description of its finances and a listing of individual contributions of \$1,000 and over received from these other entities it represents in this proceeding since such contributions should be taken into consideration when determining compensation.

This matter did not appear on the Commission's public agenda as required by the Government Code; however, an emergency exists sufficient to justify our action under Public Utilities Code § 306(b). Our action on this petition for eligibility is overdue under Rule 75.05 and TURN has other petitions for compensation pending in several proceedings but has not received a ruling on its eligibility for Calendar Year 1984 to date. Without this ruling, TURN must repeatedly submit voluminous supporting documentation with each petition and it is not reasonable to impose such a hardship on organizations wishing to participate in our proceedings.

Finding of Fact

TURN and its constituent consumer class would suffer a significant financial hardship absent the potential ability to receive compensation.

Conclusion of Law

The petition of TURN should be granted.

INTERIM ORDER

IT IS ORDERED that the petition of TURN for a Finding of Eligibility for Compensation in A.83-12-53 is granted. TURN in its filing for compensation will provide an updated summary description of its finances and a listing of individual contributions of \$1,000 and over received from all entities it represents in this proceeding.

This order becomes effective 30 days from today.

Dated AUG 1 1984, at San Francisco,  
California.

Commissioner Priscilla C. Crow,  
being necessarily absent, did  
not participate

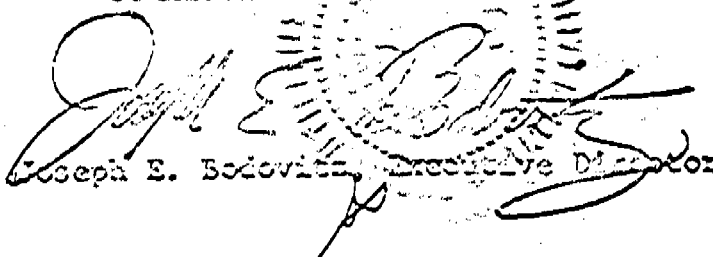
Commissioner William T. Bagley  
being necessarily absent, did  
not participate.

LEONARD M. GRIMES, JR.  
President

VICTOR CALVO  
DONALD VIAL

Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

  
Joseph E. Bodovitz, Executive Director

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List Of Appearances

Applicant: Richard K. Durant, Frank J. Cooley, James M. Lehrer, Stephen E. Pickett, and Larry C. Mount, Attorneys at Law, for Southern California Edison Company.

Interested Parties: Harry K. Winters, for University of California; William B. Marcus, by Janice G. Hamrin, for Independent Energy Producers; Downey, Brand, Seymour & Rohwer, by Philip A. Stohr, Attorney at Law, for General Motors Corporation and Union Carbide Corporation; Elmer W. Johnson, General Counsel; Julius Jay Hollis, Attorney at Law; John W. Witt, City Attorney, by William S. Shaffran, Deputy City Attorney, for City of San Diego; William L. Knecht, Attorney at Law, for California Association of Utility Shareholders; Biddle & Hamilton, by Richard L. Hamilton and Halina Osinski, Attorneys at Law, for Western Mobilehome Association; William L. Reed, Randall W. Childress, and Jeffrey Lee Guttero, Attorneys at Law, for San Diego Gas & Electric Company; Steven A. Geringer, Attorney at Law, for California Farm Bureau Federation; Petty, Andrews, Tufts & Jackson, by Allan J. Thompson, Attorney at Law, for California Large Energy Consumers Association; Michael Peter Florio, Jon F. Elliott, and Robert Spertus, Attorneys at Law, and Sylvia M. Siegel, for Toward Utility Rate Normalization; Brobeck, Phleger & Harrison, by Gordon E. Davis, William H. Booth, and Richard C. Harper, Attorneys at Law, for California Manufacturers Association; Henwood Associates, Inc., by David R. Branchcomb, for Henwood Associates, Inc.; Norman J. Furuta and Gilbert H. Chong, Attorneys at Law, for Federal Executive Agencies; Jeffrey A. Meith, Attorney at Law, Donald G. Salow, and James F. Sorensen, for Association of Water Agencies and Friant Water Users Association; Sutherland, Ashbill & Brannan, by Edward J. Grenier, Jr. and Earl H. O'Donnell, Attorneys at Law, for Federal Paperboard Company; Kronick, Moskovitz, Tiedman & Girard, by Diana D. Halpenny, Attorney at Law, and Steven R. Cranfill, for Schools Committee for Reducing Utility Bills; McCracken, Antone & Camerlengo, by Michael McCracken, Attorney at Law, and Reed V. Schmidt, for California City-County Street Light Association; Hanna and Morton, by Douglas K. Kerner, R. Lee Roberts, Attorneys at Law, and Mark Lyons, for Occidental Geothermal, Inc. and Ultrasystems, Inc.; Steven M. Cohn, Attorney at Law, for the California Energy Commission; Greve, Clifford, Diepenbrock & Parks, by Douglas L. Youmans and Thomas S. Knox, Attorneys at Law, for California Retailers Association; Chadbourne, Parke, Whiteside & Wolff, by Jerry R. Bloom, Attorney at Law, and Wayne Meek, for Simpson Paper Company; O'Donnell, Waiss, Wall & Meschke, by Fredrik S. Waiss, Attorney at Law, for Stauffer Chemical

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Company; Matthew Brady, Attorney at Law, for State Energy Assessment Program; Dan Richard, Attorney at Law, for Independent Energy Producers Association; Sara Hoffman, for County of Contra Costa; Robert Gnaizda, Attorney at Law, and Elizabeth Clark, for Black Chamber of Commerce, et al.; and Edward Duncan, for himself.

Commission Staff: Thomas P. Corr and Philip Scott Weismehl, Attorneys at Law, Ida Goalwin, and Edmund J. Texeira.

(END OF APPENDIX A)