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ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for authority to adjust its electric rates effective August 1, 1986. (Electric) (U 39 M)	Application 86-04-012 (Filed April 4, 1986)

OPINION

Summary

This decision awards Toward Utility Rate Normalization (TURN) $33,446 for its contribution to Decision (D.) 86-08-083 and D.86-12-091 in Pacific Gas and Electric Company (PG&E) Application (A.) 86-04-012.

Discussion

On November 6, 1986, TURN filed a Request for Finding of Eligibility for Compensation. This was followed by a February 6, 1987 Request for Compensation in the amount of $52,827.83 and a September 4, 1987 Amendment for an additional $3,106.79. Both are for TURN's contributions relating to D.86-08-083 and D.86-12-091 in PG&E's A.86-04-012. In the request TURN identified five issues (marginal cost, revenue allocation, gas reasonableness, residential rate design and Geysers 15) where its contribution to these decisions was substantial. The following is a summary of TURN's requested compensation:

Attorney Fees	
129 hrs. at $150/hr.	$21,300.00
39 hrs. at $125/hr.	4,875.00
Expert Witness Fees	
228.5 hrs. at $100/hr.	23,725.00
72.5 hrs. at $45/hr.	3,262.50
Miscellaneous Expenses	2,772.12
Total	$55,934.62

PG&E tendered a response to TURN's Request for Compensation on March 11, 1987. Our Docket Office rejected PG&E's response on the basis that the latest acceptable date for its filing was March 9, 1987.

On March 25, 1987 PG&E filed a motion to accept its late-filed response stating that ambiguity in our Rules of Practice and Procedure concerning service dates caused it to miscalculate the filing date. PG&E states that the service date for TURN's compensation request should be interpreted to be the date received by PG&E, February 11, 1987, not the date filed. This, PG&E believes, would be consistent with the service date in complaint proceedings.

While we acknowledge that the service date in a complaint proceeding does not coincide with the filing date of the complaint, this is due to the procedural differences in complaint proceedings; not any ambiguity in our rules. Our Docket Office serves complaints, after they have been accepted for filing, on all defendants (Rule 12). In all other proceedings service is made by the party filing a pleading.

Although PG&E's response was untimely filed we conclude that no harm was caused by the two-day delay and we will accept its response for filing. However, we caution PG&E not to consider this extension of time precedent setting for future filings.

Finally, on October 5, 1987 PG&E filed a timely response to TURN's Amendment to the Request for Compensation. In its responses PG&E argues that TURN should only be awarded $16,712.17 in compensation for the following reasons:

1. A considerable amount of TURN's work on the marginal cost and revenue allocation issues was not unique and duplicated the positions of other parties.

2. Certain TURN recommendations were not adopted, but will be considered in the future.

3. TURN's claimed hours are excessive.

4. TURN justified only one issue in its Amendment to the Request for Compensation.

A.86-04-012 was originally PG&E's annual ECAC/AER fuel cost proceeding, but it was subsequently expanded to include the marginal cost, revenue allocation and rate design issues that were transferred out of the general rate case (GRC) where they have traditionally been heard. As a result, most of TURN's work in this case related to issues that typically arise in a GRC, with a relatively small portion being devoted to traditional ECAC issues.

The proceeding was phased with respect to hearings and decisions, with marginal cost (MC), revenue allocation (RA) and most ECAC forecast and reasonableness review issues considered in Phase I (D.86-08-083) and rate design (RD) and remaining ECAC issues addressed in Phase 2 (D.86-12-091). Additionally, D.87-05-076 and D.87-11-047 addressed TURN's Application for Rehearing of the Phase I decision.

TURN made a wide variety of substantial contributions to the two major decisions in this case. In D.86-08-083, TURN contributed to numerous aspects of the marginal cost/revenue allocation (MC/RA) issue, including the sub-issue areas of marginal energy costs, marginal demand costs, marginal customer costs and revenue allocation, as well as one ECAC forecast issue. In D.86-12-091, TURN contributed to the rejection of a residential customer charge and the adoption of a disallowance for PG&E's delay in purchasing spot gas. However, there are a number of issues in which TURN's position was not adopted. These various issues will be described in greater detail below.

1. <u>Marginal Energy Costs</u>

TURN addressed one technical element of marginal energy costs that had been overlooked by both PG&E and DRA. D.86-08-083 described the issue and agreed with TURN:

"TURN raised the issue of whether a change in load in one hour can cause a change in costs in another hour and if a change occurred should it be included in marginal energy costs. Two examples were provided by TURN: (1) demand decreases during peak periods could reduce the number of generating units which must operate off-peak to serve peak load, and (2) changes in off-peak load could affect the loading of Helms and the availability of power to meet peak load. TURN's undisputed testimony identifies these as changes in costs resulting from a change in load which should be included in marginal energy costs. To correct this deficiency TURN proposes that we adopt a zero-intercept method similar to that used for SDG&E and SCE. This method would calculate the difference in total costs among two or more production cost model runs. We agree with TURN that changes in load in one hour can change the costs incurred in a subsequent hour. Therefore, we will instruct PG&E and PSD to develop a methodology to reflect this phenomena in future marginal cost studies for revenue allocation."

As shown below, TURN did not prevail on three other marginal energy cost issues in D.86-08-083:

"TURN takes the position that $11.60 per barrel of oil should be added to the fuel price to reflect the oil import premium and that social marginal energy costs should be considered in revenue allocation. However, the only social-economic factor it could quantify was PG&E's oil import premium figure.

"Since the final revenue allocation we adopt is influenced by social factors and is not a precise formula these factors are given weight. No consideration of the oil import premium will be given in developing a marginal energy cost estimate."

* * *

"For Rancho Seco, CCC, TURN, Santa Fe and State of California General Services (State) support the use of a five year rolling average in estimating its availability. However, CCC, TURN, and State would apply the average to the entire year 1987 while Santa Fe would adjust the average and to reflect PG&E's expectation, in its ECAC, that Rancho Seco will not be operational prior to August 1, 1987. PG&E's forecast, made in 1985, assumed a 61 percent capacity based on Rancho Seco's expected availability in 1987. PSD estimated a 50 percent capacity factor apparently based on the lifetime availability of the plant.

"As with Diablo Canyon, we will adopt a capacity factor for Rancho Seco based on the lifetime availability of the plant."

* * *

"In addition, TURN proposes an adjustment be made to marginal energy costs to reflect long-term energy prices. TURN argues that a $20 per barrel real oil price should be used for long-term marginal costs for revenue allocation in place of PSD's and PG&E's short-term estimates. To use other than a long-term forecast, TURN believes, will be economically inefficient by sending incorrect pricing signals to customers.

"Our objective through regulation is to act as a substitute for competition. In the market place the consumer is not always confronted with pricing which reflects long-term marginal costs. For example, look at today's gasoline prices. With the current glut in oil supply we are paying prices which could hardly include a value for shortage costs. In the past when the supply was scarce the reverse was true. Likewise, it is appropriate for our marginal energy costs to reflect current energy prices whether they are below or above long-term fuel forecasts."

2. Marginal Demand Costs

In the area of marginal demand costs, TURN again uncovered an issue that was overlooked by all of the other parties. D.86-08-083 described the matter as follows:

"Marginal demand costs measure the change in total costs caused by a change in demand. These costs are calculated in terms of the incremental investment in physical plant needed to serve the next unit of load. Demand costs are divided into three categories: generation, transmission and distribution.

"TURN has identified an error in the calculation of plant-related administrative and general (A&G) costs which affects each of the three demand categories. It states that both PG&E and PSD calculated plant-related A&G as a one-time increase in cost added to the capital cost of the plant. Since TURN's claim is undisputed by the parties, we will not include the variable costs associated with plant-related A&G in our calculation of marginal demand costs."

However, three of TURN's recommendations related to marginal demand costs were not adopted as shown below:

"Both TURN and Santa Fe would increase PG&E's cost estimates for a CT by including expected costs for (1) transmission tower and rights of way, (2) gas interconnects and transmission, (3) site improvement costs, (4) substation costs, (5) black start capabilities, and (6) selective catalytic reduction for NOx control.

". . . TURN recommends that the cost of a CT be increased by at least $25/kilowatt to reflect the items listed above.

"Depending on the CT's location, some of the items which Santa Fe and TURN enumerate may be appropriate to include in a CT cost estimate. However, what is lacking is testimony on a typical CT site. A likely scenario could locate a CT on or near an existing production facility which might obviate the need for electrical transmission towers, right of ways, gas transmission facilities, black start capability and selective catalytic reduction for NOx control. Even if a site was independent of existing production facilities some of these items may not warrant inclusion.

"Besides site considerations, Santa Fe's and TURN's estimates appear to be very general and lack the necessary detail we need for consideration in valuing a CT."

* * *

"TURN recommends two adjustments to PSD's estimate of transmission and distribution capacity costs. First, TURN supports PG&E's use of 15 years of marginal cost data 1975-1989 in place of PSD's use of 10 years 1980-1989. Second, TURN included line transformer costs in its demand distribution regressions while PSD estimated line transformer costs separately.

"TURN also recommends the use of 15 years of marginal cost data because of the uncertainties regarding the demand forecast and the inconsistencies of both PG&E's and PSD's demand forecasts used for the various components of marginal costs. While theoretically a demand forecast would impact a utility's forecast of transmission and distribution facilities which would be used in developing a marginal demand cost estimate, TURN has failed to show how the use of more historical data relates to the uncertainty in demand forecasts. In contrast to PSD's testimony, TURN's arguments are general in nature, lacking justification and without specific identification of its allegations.

"TURN's final recommendation concerns PSD's estimate of line transformer costs by customer class. TURN's position is that line transformers for all customer classes have a major demand-related component and should be allocated on a demand basis. PSD, as detailed in the discussion on customer costs, has taken the approach of allocating facilities that can be uniquely designated to a specific class to that class. Our primary objective is to allocate costs to the class which causes their incurrence. We believe PSD's methodology is consistent with this objective and we will adopt it as reasonable."

3. <u>Marginal Customer Costs</u>

TURN made probably its most substantial contributions in the area of marginal customer costs. On the policy level, D.86-08-083 agreed with TURN's contention that only decremental facility costs are appropriately allocated to existing customers, and adopted a weighted average approach. While we did not have sufficient data to implement that policy in D.86-08-83, we did express a clear preference for use of the weighted average method in future cases:

> "We do, however, concur with TURN that PSD's approach ignores the marked difference in marginal customer costs between new and existing customers. Because new customers are a small fraction of each customer class, this approach may overstate the level of customer costs incurred, assigning too much to this cost category and too little to demand costs."

TURN also substantially contributed to the adopted customer costs with respect to the overhead/underground issue and the exclusion of marketing, service planning, and conservation expenses. D.86-08-083 addressed these matters as follows:

> "A second concern we have with PSD's typical customer approach is the assumption that all new residential and small light and power customers will be served by underground equipment. While the vast majority of new customers will be served by underground equipment, there are many situations where overhead equipment will be used. We will adopt TURN's weighted average of underground and overhead equipment as shown in Exhibit 151. For variable customer costs we will delete marketing and service planning expenses from PSD's estimate. As TURN pointed out, these expenses are targeted to industrial customers and are not customer related. Both TURN and PSD were opposed to PG&E's inclusion of conservation and load management costs as not customer related. We will adopt their position."

4. <u>Revenue Allocation</u>

In the area of revenue allocation, TURN contributed to D.86-08-83's policy determination with respect to the proper allocation of transmission and distribution capacity costs to time periods:

> "TURN and ACWA argue that transmission and distribution capacity are designed to serve two functions: meet peak load and provide redundancy which reduces the frequency and duration of outages on a year-round basis. After making these assumptions TURN concludes that transmission and primary distribution costs should be allocated 50% on a demand basis and 50% equally to all hours, relative use. TURN's assumption concerning the reliability of certain transmission and distribution facilities appears reasonable. However, the assumption that 50% or 100% of these facilities should be allocated on a relative use basis because of redundancy is unrealistic. We would expect redundancy to account for only a small portion of transmission and distribution costs. Therefore, we will direct PG&E to analyze its new installations between now and its next GRC filing in an attempt to determine what portion of transmission and distribution costs are related to redundancy."

There are also three revenue allocation issues in which TURN's position was not adopted. These are shown below:

> "TURN presents us with a hybrid allocation method using SAPC for ECAC and a 50-50 weighted average of SAPC and EPMC for the GRC. In addition, TURN's SAPC is modified to decrease the large light and power class by approximately 1.4 times the system average rate decrease. Due to the combination of a modified SAPC and a weighted average SAPC and EDMC, (sic) applied differently to ECAC and the GRC, TURN provides us with a method which does not give a clear indication of what direction we are moving now, or in the future.
>
> "Another issue TURN raises is the application of EPMC. As shown in Exhibit 133, TURN's approach yields the largest decrease to small light and

power, almost no decrease to railway and a decrease above the system average rate decrease for agriculture. This contradicts the EPMC results of both PG&E and PSD which would provide the largest decreases to large light and power and railway, an increase for agriculture and a decrease below the system average for small light and power. While differences in the marginal cost estimates could contribute to these discrepancies, the major difference appears to be due to TURN's application of EPMC.

"TURN recommends that LOLPs be measured on a seasonal and TOU basis to be consistent with rate design and that relative use be included in the allocation of transmission and distribution costs. The effect of TURN's approach is to spread costs over more hours, allocating more costs to high load factor customers. The difficulty with this is that demand costs are more appropriately related to peak demands which occur for short periods. Spreading these costs by TOU periods, even though they are assigned by LOLP, dilutes the allocated costs to the responsible classes. We believe PSD's use of 100 hours of highest load properly captures the relationship between costs and responsibility."

* * *

". . . PSD's EPMC methodology will be adopted. . . ."

5. Geysers Unit 15 Expenses

Late in the Phase I proceeding, TURN discovered an oversight in PG&E's ECAC forecast estimate of geothermal steam expenses for Geysers Unit 15. In its brief, TURN pointed out that DRA forecasted Geysers Unit 15 to operate at an average 38% capacity factor and that the steam supplier for Unit 15 is subject to a price reduction if generation is below 50%. On that basis, TURN argued that the forecasted Geysers Unit 15 steam price should be reduced.

While it turned out that TURN's calculations were overstated, the suggested adjustment was adopted in D.86-08-083.

6. Residential Rate Design -- Customer Charge

TURN's participation in the Phase 2 rate design hearings was very limited. The primary focus of TURN's involvement was on the issue of a residential customer/minimum charge. One of the consistent themes raised by TURN throughout the proceeding was that the interaction of a customer charge with the baseline program would create inequitable customer impacts.

D.86-12-091 rejected DRA's proposed customer charge, but also rejected TURN's recommended application of the minimum charge to base rates:

> "We support in principle PSD's position to establish a customer charge for residential customers. However, we recognize that because of the constraints which baseline places on the establishment of Tier I and Tier II rates a customer charge would distort these rates, thus obscuring its intended purpose. We also find merit in TURN's proposal to apply the minimum charge to base rates. But, we agree with PG&E that this approach could lead to a considerable amount of customer confusion. A fundamental goal of rate design is that rates must be understandable. We doubt that residential customers recognize the difference between base rates and ECAC rates and, even if they did, that they could appreciate the distinction of a minimum charge solely for base rates. Therefore, we will adopt PG&E's recommendation and set the minimum charge at $5.00/month. This should accomplish two objectives: (1) all residential customers will pay a share of fixed costs and (2) rates will be easily understood."

7. Gas Reasonableness Disallowance

D.86-12-091 also resolved an outstanding reasonableness review issue regarding PG&E's delay in entering the spot gas market in mid-1985. DRA originally raised this matter in its report and recommended a $1.9 million disallowance. In the course of cross-examination TURN's counsel uncovered evidence that increased that amount:

> "TURN is in agreement with PSD, but points out that PSD calculated its disallowance assuming spot gas would replace gas takes above the 60% minimum required for El Paso Natural Gas Company (El Paso) and neglected to include Canadian purchases based on PG&E's equitable purchase policy. TURN in Exhibit 166 calculates that the total disallowance should be $2,414,929 plus interest."

D.86-12-091 agreed that PG&E took too long in entering the spot market. Not only did TURN act to increase the size of the eventual disallowance, TURN's cross-examination and argument provided a valuable supplement to the work of DRA.

8. <u>Application for Rehearing</u>

TURN filed an application for rehearing of D.86-08-083 citing three issues that should be addressed: an inconsistency between Conclusion of Law 23 and Finding of Fact 35, a computational error in the adopted marginal costs, and the rationale for the adoption of DRA's incremental new customer estimate. Two of TURN's issues were adopted by D.87-05-076 as discussed below:

> "We will modify the decision in two respects. First, while we do not agree with TURN that Conclusion of Law 23 is inconsistent with and contradicts Finding of Fact 35 and the discussion at pages 49-49b of the decision, we do recognize that Conclusion 23 does not completely reflect the position expressed elsewhere in the decision. We will clarify the conclusion accordingly.
>
> "Secondly, TURN has correctly identified a computational error in the adopted marginal costs of final line transformers for the residential and small light and power classes. We attach corrected numbers to this order.

"Finally, we agree with TURN that our adoption of the Public Staff Division's (PSD's) incremental new customer cost estimate as a proxy for a weighted average of the incremental cost for new customers and the decremental cost for existing customers is based on a rationale which is not borne out by the facts."

* * *

"We will thus grant limited rehearing to bring the numbers into conformance with what we understood we were adopting in the decision."

We agree with TURN that it made a substantial contribution to our decisions on the issues it identified. However, we are not in agreement with TURN's allocation of hours worked versus hours claimed. As stated in the request, TURN did not prevail on every point that it addressed, but TURN requested compensation for 92% of the hours worked. We will adjust TURN's request to reflect the extent of its contribution.

Except for the gas reasonableness, Geysers 15, and rehearing items, we will compensate TURN for 50% of the hours worked and related expenses. In arriving at this allocation factor consideration was given to TURN's involvement with the issues in which it prevailed. Since TURN's position was adopted for the gas reasonableness and Geysers 15 issues, full compensation should be awarded for these items. We will also allow TURN its requested compensation for the two issues in its Application for Rehearing which were granted by D.87-05-076 dated May 29, 1987.

Finally, D.86-02-039 found TURN eligible for compensation in 1986 and D.86-12-053 approved a base fee for Mr. Florio of $150 per hour. In addition to Mr. Florio's hourly fee TURN is requesting $125 per hour for other attorney fees and $45-$100 per hour for expert witness fees. These rates appear reasonable.

The following table summarizes our compensation award for TURN's contribution to D.86-08-083 and D.86-12-091:

Adopted Compensation

Attorney Fees	
M. Florio 92.33 hrs. at $150/hr.	$13,850
J. Elliott 18.25 hrs. at $125/hr.	2,281
R. Schwartz 1.25 hrs. at $125/hr.	156
Expert Witness Fees	
W. Marcus 139.46 hrs. at $100/hr.	13,946
C. Sullivan 36.25 hrs. at $45/hr.	1,631
Expenses	
Postage	345
Copying	838
Telephone	78
Attorney	30
Witness	291
Total	$33,446

Since this decision was not issued within 75 days from the date of TURN's request as required by Public Utilities Code Section 1804, we will allow interest on the award. Interest should be calculated in the same manner as the deferred account established in D.86-06-079 and on $29,081 should accrue from the 76th day after the request was filed. Interest on $4,365, the award for TURN's Application for Rehearing, should accrue from the 76th day after the Amendment to the request was filed.

Finally, TURN is placed on notice it may be subject to audit or review by the Commission Advisory and Compliance

Division, therefore adequate accounting records and other necessary documentation must be maintained in support of all claims for intervenor compensation. Such record-keeping systems should identify specific issues for which compensation is being requested, the actual time spent by each employee, the hourly rate paid, fees paid to consultants, and any other costs incurred for which compensation may be claimed.

Findings of Fact

1. TURN was found eligible for compensation in 1986 by D.86-02-039.

2. An attorney fee of $150 per hour was found reasonable for Mr. Florio in D.86-12-053.

3. TURN filed its Request for Compensation on February 6, 1987 and an Amendment on September 4, 1987.

4. PG&E filed a motion to accept a late-filed response to TURN's request for compensation.

5. TURN did not prevail on every point it addressed.

6. TURN prevailed on the gas reasonableness and Geysers 15 issues.

7. TURN's Application for Rehearing was granted in part by D.87-05-076 dated May 29, 1987.

8. Public Utilities Code Section 1804 requires compensation awards to be decided by the Commission within 75 days from the date of filing.

Conclusions of Law

1. TURN's requested hourly fees are reasonable.

2. An allocation factor of 50% appropriately reflects TURN's contribution to D.86-08-083 and D.86-12-091 on all issues it addressed except gas reasonableness and Geysers 15.

3. TURN should receive full compensation for its work on the gas reasonableness and Geysers 15 issues.

4. TURN should be allowed its requested compensation for the issues on which it prevailed in its Application for Rehearing.

5. No harm was caused by PG&E's late-filed response to TURN's request for compensation.

6. PG&E's late-filed response is accepted for filing.

7. PG&E should pay TURN interest on $29,081 from the 76th day after the request was filed and on $4,365 from the 76th day after the amendment to the request was filed, calculated in the same manner as the deferred account established in D.86-06-079.

8. The adopted compensation of $33,446 plus interest as shown on page 4 of this decision is reasonable and should be awarded to TURN.

O R D E R

IT IS ORDERED that Pacific Gas and Electric Company shall pay to Toward Utility Rate Normalization, within 10 days of the effective date of this decision, a compensation award of $33,446 plus interest.

This order is effective today.

Dated January 28, 1988, at San Francisco, California.

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

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

Victor Weisser, Executive Director