

Decision 88 11 057 NOV 23 1988

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation )  
into procurement and system )  
reliability issues deferred from )  
D. 86-12-010. )

I.87-03-036  
(Filed March 25, 1987)

Order Instituting Rulemaking into )  
natural gas procurement and system )  
reliability issues. )

R.88-08-018  
(Filed August 10, 1988)

OPINION

On May 8, 1988, Toward Utility Rate Normalization (TURN) filed a request for a finding of eligibility for compensation in our gas storage investigation, which was consolidated after TURN's filing with Order Instituting Rulemaking 88-08-018. The timing of the request complies with the applicable Rule of Practice and Procedure (Rule 76.54), which provides that the request may be filed within 45 days after the close of the evidentiary record. This request coincides with the storage banking phase of the case; however, TURN is seeking a finding for eligibility for the entire proceeding, including procurement issues and any subsequent phases yet to be established, in order to avoid repetitive filings.

TURN submitted its showing of financial hardship for calendar year 1988 in I.87-11-033, and a finding of financial hardship was made in Decision (D.) 88-07-035 on July 8, 1988.

Since TURN is submitting this request after the close of evidentiary proceedings for the storage phase, the issues for which it seeks compensation are already set forth in its testimony and brief.

TURN says that it may request up to \$30,000 for its work in the storage phase, which assumes 140 hours of dual attorney/witness time at \$200/hr plus \$2,000 in other costs such as postage and copying expense for this phase. TURN proposes to justify the reasonableness of its hourly rate in the compensation filing, which is the appropriate place to consider the rate.

The rationale behind the requirement for filing a budget (and a list of issues) in the request for a finding of eligibility is to provide the Commission an opportunity to notify the intervenor if there are elements of duplication or if the budget appears unrealistic. In this spirit, we caution TURN that \$200/hr appears high, given current levels of intervenor compensation for work performed in 1988. We will make our final decision, of course, when compensation is actually requested and after considering the justification we expect will be filed.

We also note that our compensation rules and the statutory framework for them did not really contemplate proceedings with multiple phases extending over a lengthy period. As a result of this reality, however, we frequently find ourselves faced with compensation requests filed more than a year after the work in earlier phases was completed. Since our hourly rate for compensating intervenors has grown over the years, and may grow in the future, this raises the issue whether we compensate the earlier work done in a proceeding at the rate that was in effect when the work was done or at the rate that is in effect when the work on a later phase was completed and the compensation request actually filed. We place TURN on notice that it should justify any request for compensation for work done in the storage phase if it ultimately requests a level of compensation greater than we have awarded for other work completed in 1988. ✓

TURN's request to be found eligible for the entire proceeding has merit, notwithstanding the fact that we have neither issues nor a budget for its future participation. If TURN is

willing to bear the risk that its issues in further phases of this proceeding might be duplicative or that its budget might be found unreasonable, we see no benefit to requiring further filings which unnecessarily tax both TURN's resources in making them and ours in processing them.

Findings of Fact

1. TURN has received a finding of financial hardship in D.88-07-035; that finding applies to TURN for the entire year 1988.

2. TURN is filing this request for a finding of eligibility after completion of hearings on the storage banking phase of this proceeding, so its issues are a matter of record in its testimony and brief.

3. TURN has filed an estimated level of compensation and an approximate number of hours for the storage banking phase of this proceeding.

4. TURN requests that the finding of eligibility extend to its participation in future phases of this proceeding without further pleadings setting out issues or budgets for this participation.

Conclusions of Law

1. TURN should be found eligible to receive compensation in this proceeding.

2. The finding of eligibility should extend to TURN's entire participation in this proceeding without any requirement for further pleadings setting out issues or budgets for future phases.

3. Since this request for a finding of eligibility was filed six months ago, the order making the finding should be effective immediately.

ORDER

IT IS ORDERED that Toward Utility Rate Normalization is found eligible for compensation for its entire participation in this proceeding (now consolidated with Order Instituting Rulemaking 88-08-018) and need not file further pleadings setting out issues or budgets for its participation in future phases of this proceeding.

This order is effective today.

Dated NOV 23 1988, at San Francisco, California.

STANLEY W. HULETT  
President

DONALD VIAL

FREDERICK R. DUDA

C. MITCHELL WILK

JOHN B. OHANIAN

Commissioners

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

*[Signature]*  
Vice President, Executive Director

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