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Decision 92-08-015 August 11, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC GAS AND ELECTRIC COMPANY for authority, among other things, to increase its rates and charges for electric and gas service.

(Electric and Gas) (U 39 M)

ORIGINAL

Application 88-12-005 (Filed December 5, 1988)

O P I N I O N

This decision awards Toward Utility Rate Normalization (TURN) \$11,665.59 for its substantial contribution to Decision (D.) 92-04-063 (Pacific Gas & Electric Company's (PG&E) 1992 Rate Design Window proceeding).

TURN filed a request for compensation on May 22, 1992 for its work in the 1992 Rate Design Window phase of this docket. Rule 76.56 of the Commission's Rules of Practice and Procedure governs requests for compensation:

"Following issuance of a final order or decision by the Commission in the hearing or proceeding, a customer who has been found by the Commission...to be eligible for an award of compensation may file within 30 days a request for an award. The request shall include, at a minimum, a detailed description of services and expenditures and a description of the customer's substantial contribution to the hearing or proceeding."

By D.90-01-010, we found TURN eligible for compensation in this docket. In accordance with Rule 76.56, TURN filed its request within 30 days after the issuance of the Commission D.92-04-063.

Substantial Contribution

Rule 76.58 requires the Commission to determine whether the intervenor has made a substantial contribution to the Commission's decision, to describe that contribution, and to set the amount of the compensation to be awarded. According to Rule 76.52(g), an intervenor has made a "substantial contribution" when:

"...in the judgment of the Commission...the customer's presentation has substantially assisted the Commission in the making of its order or decision because the order or decision had adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer."

TURN asserts that it made a substantial contribution to the Commission's decision on residential rate issues. We agree that TURN made a substantial contribution with respect to our determination of the residential rate tier differential. Although we did not adopt TURN's specific proposal for tier differentials, we were influenced by TURN's testimony in adopting a more moderate tier differential reduction than that proposed by PG&E. TURN cites a number of excerpts from D.92-04-063 where we make reference either to TURN or to its position in discussing our adopted findings.

The circumstances supporting TURN's request for compensation with respect to D.92-04-063 are analogous to those in PG&E's 1991 Rate Design Window proceeding (D.91-07-037) in which we previously granted intervenor compensation to TURN, stating:

"Our decision to award TURN full compensation on this issue reflects our previous determinations in similar situations where TURN was awarded full compensation although its entire position was not adopted (D.87-07-033 and D.91-04-054, p. 2). Also, TURN was alone in opposing PG&E's proposal. Without TURN's participation, the Commission may not have been alerted to the need to moderate the rate impact of PG&E's proposal."

Hourly Rates for Attorney and Expert Witnesses

TURN seeks compensation for its representatives, based upon assumed hourly rates.

TURN requests an hourly rate of \$190 for Michel Florio in this proceeding in his capacity as Senior Attorney. This hourly rate was previously authorized for Mr. Florio in D.91-12-055. Accordingly, we find it reasonable as a basis for his hourly compensation in this proceeding, and will adopt it.

TURN requests an hourly rate of \$150 per hour for K. Justin Reidhead who acted as TURN's staff attorney during the proceeding. Rule 76.60 requires compensation to be awarded based upon consideration of amounts paid to others of comparable training and experience offering similar services. TURN submits that Mr. Reidhead's time should be valued at least at the level of an experienced associate. Mr. Reidhead was employed as an attorney for the Arizona Residential Utility Consumer Office, where he had primary responsibility for many public utility rate proceedings, from 1988 until joining TURN in October 1991. Based upon Mr. Reidhead's past experience and the \$193 high-end hourly rate for an associate counsel reported in the June 1991 edition of Of Counsel, we conclude that TURN's \$150 requested hourly rate for Mr. Reidhead is reasonable.

TURN requests \$125 per hour for the services of William B. Marcus, TURN's expert witness. We previously approved this rate for Mr. Marcus in D.91-07-037. On the basis of our prior approval, we conclude that the rate is still reasonable in the present instance.

TURN seeks rates of \$70 and \$60 per hour, respectively, for the work of Mr. Marcus' associates, Jeff Nahigian and Kevin Hanson. These were the actual billing rates paid by TURN. Since we previously approved an hourly rate of \$70 for Mr. Nahigian in D.91-07-037, we find that the actual rates paid to be reasonable, and will adopt them in computing TURN's award.

Hours Claimed

The total hours claimed for compensation by TURN were itemized in Attachments A through C of its Request for Compensation. Given the scope of work involved in TURN's participation, and the level of detail presented, the hours claimed appear within reason. Mr. Florio, Mr. Reidhead, and Mr. Marcus reviewed all time records submitted in TURN's claim to determine their reasonableness. We will allow compensation for all hours claimed by TURN as reported in Attachments A through C.

Other Overhead

TURN requests \$336.09 for miscellaneous overhead costs as itemized in Attachment D of its Request for Compensation, consisting mainly of postage, copying and telephone calls. These charges appear in line with the level of effort which TURN expended on this proceeding. We will allow compensation for these costs.

Findings of Fact

1. TURN requested compensation totaling \$11,665.59 for its contribution to D.92-04-063.

2. TURN was found eligible for compensation in D.90-01-010 in this docket.

3. TURN made a significant contribution in D.92-04-063 on the issue of tier closure relative to residential rate design.

4. The hours claimed and justified for TURN's participation in this proceeding are set forth Attachments A through C of this decision.

5. Reasonable hourly fees for TURN's representatives are:

Florio: \$190

Reidhead: \$150

Marcus: \$125

Nahigian: \$ 70

Hanson: \$ 60

6. TURN incurred reasonable miscellaneous overhead charges of \$336.09 in connection with its contribution to this proceeding.

7. TURN has shown that it incurred charges totaling \$11,665.59 based upon the labor and other overhead costs found reasonable as noted above.

Conclusions of Law

1. TURN made a significant contribution to D.92-04-063 as defined under Rule 76.52(g) of the Commission's Rules of Practice and Procedure.

2. TURN should be awarded compensation for its contribution to D.92-04-063 in the amount of \$11,665.59, plus interest accrued after the 75th day after TURN filed its request for compensation.

ORDER

IT IS ORDERED that Pacific Gas and Electric Company (PG&E) shall pay Toward Utility Rate Normalization (TURN) \$11,665.59 within 30 days as compensation for TURN's substantial contribution to Decision 92-04-063. PG&E shall also pay TURN interest on this amount, calculated at the three-month commercial paper rate, beginning August 5, 1992, and continuing until full payment is made.

This order becomes effective today.

Dated August 11, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners

Commissioner John B. Ohanian,
being necessarily absent, did
not participate.

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

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NEAL J. SHULMAN, Executive Director

ATTACHMENT A

TIME SPENT BY ATTORNEY FLÓRIO

<u>Date</u>	<u>Total</u> <u>Hours</u>	<u>Hours</u> <u>Claimed</u>	<u>Work Description</u>
12/4	0.50	0.50	TC-Marcus
12/23	0.50	0.50	Review draft comments
<u>1992</u>			
1/31	1.50	1.50	Response to PG&E petition
2/21	0.25	0.25	TC-Marcus
3/2	0.50	0.50	Review draft brief
	3.25	3.25	Totals

Total = 3.25 x \$190.00/hr. = \$617.50

(END OF ATTACHMENT A)

ATTACHMENT B

TIME SPENT BY ATTORNEY REIDHEAD

<u>Date</u> <u>1991</u>	<u>Total</u> <u>Hours</u>	<u>Hours</u> <u>Claimed</u>	<u>Work Description</u>
12/18	2.50	2.50	Rsrched RDW dcsns; rvwd motions, conf w/Mike Florio re: SB 987
12/23	0.50	0.50	Rvw 1st draft of comments
"	0.30	0.30	TC-JBS re: 1st drft/edits
"	1.40	1.40	Edit cmnts, conf w/Mike Florio
"	0.50	0.50	TC-Bill Marcus re: edits
"	0.80	0.80	Final edit TURN comments
"	0.50	0.50	TC: Bill Marcus re: edits
<u>Date</u> <u>1992</u>			
1/14	0.20	0.20	TC-CACD re: sched of W's
"	0.20	0.20	TC-Bill Marcus re: sched
3/3	0.50	0.50	Rvw fnl drft of brief
"	0.50	0.50	TC-Gail Slocum, PG&E
3/4	0.30	0.30	Rvw PG&E brief
"	0.20	0.20	TC-JBS re: PG&E brief
3/5	0.50	0.50	Rvw of GRC pblic comment
"	"	"	Hrgs for rply brief
3/6	2.50	2.50	"
3/12	0.70	0.70	Rvw PG&E's reply brief
3/25	0.40	0.40	Rvw proposed decision
4/6	0.70	0.70	Rvw legisl hist SB987
"	1.10	1.10	Rvw prior dcsns re: SB987
4/7	1.30	1.30	Rvw hrgng trnspts & prpsd decision re: comments
4/8	6.00	3.00	Draft comments to P.D.
4/9	5.00	2.50	Edit & final cmnts P.D.
4/10	0.50	0.50	Rvw of PG&E's cmnts
4/13	0.60	0.60	Rvw & call JBS re: PG&E's comments
5/14	2.50	2.50	Rvw rcrds, begin comp rqst
5/15	1.90	1.90	Cntinue drft of comp rqst
5/18	0.20	0.20	TC-JBS re: expense brkdwn
5/19	6.10	6.10	Finish drft of comp rqst & edit of comp rqst/tbls

38.40	32.90	Totals
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Total = 32.90 x \$150.00/hr. = \$4,935.00

(END OF ATTACHMENT B)

ATTACHMENT C

PG&E Rate Design Window 1992

1/1/92 - 1/31/92

<u>Labor</u>	<u>Rate</u>	<u>Hours</u>	<u>Total</u>
William Marcus	\$125.00	8.00	\$1,000.00
Jeff Nahigian	70.00	13.75	962.50
Subtotal Labor			\$1,962.50
<u>Direct Costs</u>			
Fax			\$21.00

2/1/92 - 2/29/92

<u>Labor</u>	<u>Rate</u>	<u>Hours</u>	<u>Total</u>
William Marcus	\$125.00	10.25	\$1,281.25
Jeff Nahigian	70.00	21.50	1,505.00
Subtotal Labor			\$2,786.25
<u>Direct Costs</u>			
FEDEX			\$13.00
Travel Expenses			67.00

3/1/92 - 3/31/92

<u>Labor</u>	<u>Rate</u>	<u>Hours</u>	<u>Total</u>
William Marcus	\$125.00	1.25	\$156.25
Jeff Nahigian	70.00	8.50	595.00
Kevin Hanson	60.00	2.50	150.00
Subtotal Labor			\$901.25
<u>Direct Costs</u>			
FEDEX			\$26.00

	\$1,962.50
	21.00
	2,786.25
	13.00
	67.00
	901.25
	26.00
Total	\$5,777.00

(END OF ATTACHMENT C)