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Decision 92-08-030 August 11, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SOUTHERN CALIFORNIA EDISON COMPANY)
(U 338-E) for Authority to Increase)
its Authorized Level of Base Rate)
Revenue Under the Electric Revenue)
Adjustment Mechanism for Service)
Rendered Beginning January 1, 1992)
and to Reflect this Increase in)
Rates.)

ORIGINAL

Application 90-12-018
(Filed December 7, 1990)

And Related Matters.)

I. 89-12-025
(Filed December 18, 1989)

I. 91-02-079
(Filed February 21, 1991)

(See Decisions 91-12-076, 92-06-020 for appearances.)

OPINION ON REQUEST FOR COMPENSATION

1. Summary of Decision

Toward Utility Rate Normalization (TURN) is awarded \$99,221.00 in compensation for substantial contributions to Decision (D.) 91-12-076, which resolved Phase 1 issues in the test year 1992 general rate case of Southern California Edison Company (Edison).

2. Background

Phase 1 of Edison's general rate case included issues of test year revenue requirement; productivity; marginal costs; research, development, and demonstration (RD&D) activities; demand-side management (DSM); and a return on equity (ROE) penalty proposed by the Division of Ratepayer Advocates (DRA). Phase 1 culminated in D.91-12-076, issued December 20, 1991.

In D.92-04-015 the Commission granted TURN eligibility for compensation for its participation in all phases of this proceeding.

On May 8, 1992, thirty days following the decision on eligibility, TURN filed a request for \$107,188.50 in compensation for its contributions to D.91-12-076. The elements of the request are:

	<u>TURN</u>
	Attorney Joel Singer:
	110.2 hours, results of operation
	0 hours, ROE penalty
	27.9 hours, marginal costs
	54.8 hours, RD&D
	184.1 hours, DSM
	+ <u>81.5</u> hours, general
	458.5 hours
\$ 80,237.50	Attorney compensation at \$175 per hour
2,967.98	Expenses (copying, postage, telephone, FAX)
	<u>JBS Energy, Inc.</u>
23,435.00	Professional services
+ 548.02	Expenses
<u>\$107,188.50</u>	Total request

The professional services by JBS Energy, Inc. are billed hours for William Marcus (at \$125 per hour), Gayatri Schilberg (at \$95 per hour), and Jeffrey Nahigian (at \$70 per hour). TURN separated the billed hours according to subject matter but did not show the hours worked by each person.

No party protested or commented on TURN's request.

3. Final Order

Rule 76.56 of the Commission's Rules of Practice and Procedure allows eligible customers to file requests for compensation "[f]ollowing the issuance of a final order or decision by the Commission in the hearing or proceeding." Rule 76.52(h) defines "final order or decision" as "an order or decision that resolves the issue(s) for which compensation is sought." Although

D.91-12-076 was not the ultimate order in Edison's general rate case, it is a final order, as defined by Rule 76.52(h), in the hearings on Phase 1 issues. Rule 76.56 is satisfied.

4. Allocation of Costs by Issue

Phase 1 resolved more than a hundred separate issues, for which allocation of TURN's costs would be impractical if not impossible. Instead, TURN has reasonably separated its costs into six subject areas: (1) results of operations, (2) the proposed ROE penalty, (3) marginal costs, (4) RD&D, (5) DSM, and (6) general costs, principally application review at the start of Phase 1 and preparation of the compensation request.

5. Substantial Contribution

Under Rule 76.58, in order to award compensation the Commission must find that the customer has made a "substantial contribution," as that term is defined in Rule 76.52(g). TURN claims that its accomplishments in Phase 1 have greatly exceeded the minimum requirements for establishing a substantial contribution.

TURN should be granted compensation for all of its hours and expenses devoted to results of operation. TURN made many substantial contributions in this subject area, by taking positions which were wholly or partially adopted by the Commission: (1) setting rates related to San Onofre Nuclear Generating Station, Unit 1 subject to refund; (2) increased scrutiny of expenses at Edison's Yuma Axis Generating Station; (3) limitation of transmission expenses to amounts requested for individual accounts; (4) executive bonuses; (5) reduced corporate communications expenses; (6) deletion of holding company expenses; (7) reduced regulatory expenses; (8) denial of authorized expenses for the Nuclear Management and Resource Council; and (9) increased revenue credits from the City of Long Beach.

TURN did not seek compensation for its work on DRA's proposed ROE penalty.

TURN should be granted compensation for all of its hours and expenses devoted to marginal costs because: (1) TURN actively participated in negotiations which resulted in an uncontested settlement on marginal costs, (2) TURN's witness testified on the structure and necessary updating of the adopted marginal costs, and (3) the Commission adopted a TURN recommendation that Edison perform a study on transformer costs related to marginal costs.

TURN should be granted compensation for all of its hours and expenses devoted to RD&D. TURN's efforts were concentrated on Edison's expenditures for electric vehicles. TURN was the only party opposing Edison's proposed recovery of prior year electric vehicle costs in excess of authorized amounts. The Commission adopted TURN's position only in part, but the Administrative Law Judge's (ALJ's) proposed decision had recommended TURN's position without reservation. In cases where the Commission does not wholly adopt the customer's position, contribution to an ALJ's proposed decision reinforces a substantial contribution to an order or decision.

TURN should be granted compensation for all of its hours and expenses devoted to DSM. The Commission adopted various TURN recommendations which eliminated unnecessary program costs exceeding \$1 million. The Commission also adopted TURN positions on budgetary reforms which eliminated general advertising from DSM programs, limited administrative and general costs within programs, and interpreted Public Utilities Code § 701.1 to best protect ratepayers.

Finally, TURN should be granted compensation for all of its hours and expenses for general work during Phase 1. That work was principally initial case review and preparation of the

compensation request. The standard for awarding of compensation for initial case review was set in D.85-08-012:¹

"If in our opinion an intervenor makes a substantial contribution on all or most of the issues it addresses, or if we determine that the significance of the issues on which the intervenor prevails justifies full compensation even though there hasn't been strict allocation (D.85-02-027), the intervenor should receive compensation for all of its initial preparation time. If the intervenor is less successful, in our judgment, initial preparation time may be compensated on a pro rata basis, according to the proportion of successful issues to total issues addressed."

TURN's work in Phase 1 has made substantial contributions to most of the issues TURN addressed. No pro rata adjustment of TURN's preparation hours is necessary. TURN should be compensated for reasonable hours spent preparing its compensation request, in accordance with D.91-11-030.

6. Hourly Rates

TURN seeks an hourly rate of \$175 for attorney Joel Singer, TURN's lead attorney for Phase 1. TURN claimed that this 1991 rate is justified by market rates commanded by attorneys of similar skill and experience. TURN's arguments repeat those it made in the nonfirm rate phase of Application 88-12-005, a general rate case of Pacific Gas and Electric Company. In D.92-04-050, the Commission found that an hourly rate of \$160 was fair and reasonable for Singer's 1991 work in that proceeding.² TURN has not convinced us to increase that hourly rate. We will award compensation for Singer's time at \$160 per hour.

1 At mimeo. p. 15.

2 Finding of Fact 6.

Rule 76.52(b) defines expert witness fees as "recorded or billed costs incurred by a customer for an expert witness."

However, Rule 76.60 requires that all compensation

"...shall take into consideration the compensation paid to persons of comparable training and experience who offer similar services. The compensation awarded may not, in any case, exceed the market value of services paid by the Commission or the public utility, whichever is greater, to persons of comparable training and experience who are offering similar services."

We have before us little information about the market for the services of JBS Energy, Inc., but the Commission has previously compensated TURN for work by JBS Energy, Inc. at the rates requested in this proceeding. In D.91-07-037 the Commission approved rates of \$125 per hour for William Marcus, \$95 per hour for Gayatri Schilberg, and \$70 per hour for Jeffrey Nahigian. Those rates are reasonable for Phase 1.

7. Computation of Compensation

TURN's listing of attorney Singer's hours contains minor errors which reduce the requested total time from 458.5 hours to 451.5 hours. On April 1, 1991 Singer worked 1.7 hours on this proceeding, but TURN requested 9.1 hours in compensation. We will reduce the awarded compensation by the difference, which is 7.4 hours. Also, TURN's listed total for marginal cost hours is 0.4 hours short of the total of the individual listed hours. We will restore the missing 0.4 hours, leaving a net reduction of 7.0 hours.

TURN has also understated its requested expenses by \$30, due to arithmetic error.

The adopted compensation award is:

TURN

Attorney Joel Singer:

102.8 hours, results of operation
0 hours, ROE penalty
28.3 hours, marginal costs
54.8 hours, RD&D
184.1 hours, DSM
+ 81.5 hours, general
451.5 hours

\$ 72,240.00	Attorney compensation at \$160 per hour
2,997.98	Expenses (copying, postage, telephone, FAX)
	<u>JBS Energy, Inc.</u>
23,435.00	Professional services
+ 548.02	Expenses
\$ 99,221.00	Total award

Consistent with previous Commission decisions, we will order that interest be paid on this amount, commencing on the 75th day after TURN filed its compensation request. Pursuant to Rule 76.57, the Commission may audit TURN's records and books to the extent necessary to verify the basis for this award.

Findings of Fact

1. TURN has requested \$107,188.50 in compensation for its contributions to D.91-12-076.
2. No party protested or commented on TURN's request.
3. TURN has made substantial contributions to D.91-12-076 in the areas of results of operation, marginal costs, RD&D, and DSM.
4. TURN has made substantial contributions to most of the issues it addressed in Phase 1.
5. TURN has adequately allocated its costs by issue.
6. TURN has not justified an hourly rate of \$175 for the 1991 work of attorney Joel Singer in Phase 1 of this proceeding.
7. An hourly rate of \$160 for the 1991 work of attorney Joel Singer in Phase 1 of this proceeding is fair and reasonable.

8. The requested hourly rates for professional services provided by JBS Energy, Inc. are fair and reasonable for 1991 work in Phase 1 of this proceeding.

9. No pro rata adjustment of TURN's preparation hours is necessary.

10. Compensation for 451.5 hours of work by attorney Joel Singer is reasonable and should be adopted.

Conclusions of Law

1. TURN has previously been found eligible for compensation in this proceeding.

2. TURN should be compensated \$99,221.00 plus interest commencing on the 75th day after TURN filed its request.

3. The Commission may audit TURN's records and books to the extent necessary to verify the basis for this award.

ORDER

IT IS ORDERED that:

1. Toward Utility Rate Normalization (TURN) is awarded \$99,221.00, plus interest, in compensation for its contributions to Decision 91-12-076.

2. Southern California Edison Company shall, within 30 days of the effective date of this decision, pay TURN \$99,221.00 plus interest at the rate earned on prime, three-month commercial paper, as reported in the Federal Reserve Statistical Release, G.13, commencing July 22, 1992 until payment is made.

This order is effective today.

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

DANIEL Wm. FESSLER
Président
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


NEAL J. SHULMAN, Executive Director