

Decision 82 11 052 NOV 17 1982**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC POWER & LIGHT )	
COMPANY under Section 454 of the )	Application 60560
Public Utilities Code of the State of )	(Filed May 18, 1981;
California for authority to increase )	amended September 17, 1981)
rates for electric service. )	
_____ )	

(See Decision 82-05-042 for appearances.)

Additional Appearances

John J. McMahon, for Idaho Public Utilities Commission, and Alex J. Eliopoulos, for Wyoming Public Service Commission, interested parties.  
Francis S. Ferraro, for the Commission staff.

ORDER ON REQUEST FOR  
AWARD OF PURPA COMPENSATION

By its petition filed August 24, 1982 Toward Utility Rate Normalization (TURN) requests an award of Public Utility Regulatory Policies Act of 1978 (PURPA) compensation and fees in the amount of \$48,656.28 for its participation in this proceeding. The award would cover the following:

Attorney fees	\$26,925.00
Witness fees	19,383.00
Other expenses	<u>2,348.28</u>
Total	\$48,656.28

TURN makes its request under Rule 76.06 of the Commission's Rules of Practice and Procedure (Rules).

In support of its request, TURN relies on Decision (D.) 82-05-042 dated May 4, 1982, which was an interim opinion in this

matter, and D.82-07-116 dated July 21, 1982, which denied the request of Pacific Power & Light Company (Pacific), for a re-hearing of D.82-05-042 but modified that decision by adding two additional findings of fact.

By D.93545 dated September 15, 1981, TURN was found eligible for PURPA compensation in this proceeding. Under Rules 76.06 and 76.08, there are two issues to be addressed in this decision; these are whether TURN made substantial contributions in support of a position on a PURPA standard that was adopted, in whole or in part, by the Commission and, if so, the amount of compensation to be awarded. In its response to TURN'S request applicant in this proceeding, Pacific, pleads that TURN is premature with its request because of the interim nature of D.82-05-042 and D.82-07-116 and the further hearings on the jurisdictional cost allocation issue. We reject that argument as we did in D.82-08-085 dated August 18, 1982 in Application (A.) 60153 of Pacific Gas and Electric Company (PG&E). Rule 76.06 provides that following any decision or order in a proceeding parties may file for compensation.

The Question of Substantial Contribution

Rule 76.06 sets forth the following requirements for a showing of substantial contribution:

". . . Such request shall include a detailed description of hourly services and expenditures or invoices for which compensation is sought. To the extent possible, this breakdown of services and expenses should be related to specific PURPA issues. The request shall also describe how the consumer has substantially contributed to the adoption, in whole or in part, in a Commission order or decision, of a PURPA position advocated by the consumer related to a PURPA standard.

'Substantial contribution' shall be that contribution which, in the judgment of the Commission, substantially assists the Commission to promote a PURPA purpose in a manner relating to a PURPA standard by the adoption, at least in part, of the consumer's position. A showing of substantial contribution shall include, but not be limited to, a demonstration that the Commission's order or decision has adopted factual contention(s), legal contention(s), and/or specific recommendation(s) presented by the consumer."

TURN claims that in this proceeding it substantially contributed to the adoption, in whole or in part, of PURPA positions relating to jurisdictional cost allocation and residential rate design, specifically, elimination of the customer charge.

With respect to jurisdictional cost allocations, TURN recommended adoption of the growth share allocation method as it did in Pacific's previous general rate case, A.58605. (D.92411 dated November 18, 1980, in that application, contains a complete discussion of the growth share and other methods of jurisdictional allocation.) TURN claims that the interim decisions in this proceeding unequivocally find that the growth share method of allocation is a reasonable basis for setting Pacific's California rates. TURN concludes this, in particular, from the following two findings added to D.82-05-042 by D.82-07-116:

- "5a. The existing cost allocation methodology is in need of change.
- "5b. The growth share 1968 base year allocation, adjusted to reflect our other decisions on expenses, rate base, rate of return and ERTA, is reasonable for purposes of this interim decision."

In its response filed September 3, 1982, Pacific disputes TURN's contentions. Pacific concedes that the Commission used the

growth share method to determine the level of the interim rate increase allowed but maintains that the Commission has not adopted the growth share method. Pacific points out that the further hearings scheduled in this proceeding are for the specific purpose of considering other methods of allocation in addition to growth share. It believes that the growth share method has been used only to establish a floor for the interim rate increase and for no other purpose whatsoever. Pacific holds that if the Commission has adopted growth share, then there is no reason to hold further hearings in an effort to examine all allocation procedures leading to a final determination by the Commission.

We agree with Pacific that the Commission has not adopted any final allocation procedure for Pacific. However, the Commission has used the 1968-based growth share method to set rates on the basis of costs and investment which are not in dispute pending a final determination of the proper allocation procedures. Without TURN's participation, the Commission would not have had the record available for this interim determination. Without committing to any particular allocation procedure, we consider that to be a substantial contribution to the PURPA cost-of-service standard.

TURN was the only party to these proceedings to urge the elimination of the customer service charge. Although TURN did not sponsor a witness for that purpose, it is clearly the result of TURN's cross-examination of witnesses and its briefs that the Commission eliminated the charge. We consider TURN's

efforts here to be a substantial contribution to the PURPA cost-of-service and declining-block-rate standards.

Amount of Compensation

Appendix A contains the detail of TURN's request for compensation totaling \$48,656.28. The attorney and witness fees account for a majority of the total and reflect fees of \$75 and \$70 per hour respectively. TURN's estimated budget contained in its eligibility filing was \$56,250. Witness fees and other costs are below projected levels; attorney time exceeded the estimated budget by 59 hours. TURN claims this is because, one, the hearings extended well beyond the originally contemplated schedule and, two, Pacific presented an eminent rebuttal witness which required TURN's attorney to put in unexpected amounts of preparation time.

We see only two matters to consider in determining a reasonable amount for compensation, the fee per hour for TURN's attorney and expert witness, and the number of hours claimed.

The hourly fee requested for the attorney is the same we found reasonable in the PG&E decision, D.82-08-085, and, in fact, involves the same attorney. We will use it again in this proceeding. The expert witness fee requested is the same we found reasonable in awarding TURN compensation in Pacific's last rate case and is also for the same witness; we will use it again in this proceeding.

On the number of hours billed, the expert witness time is the amount actually billed to TURN as attested to in TURN's verified request. Since the witness was called for the sole purpose of supporting the growth share allocation method, the billed time is reasonable and will be adopted. Pacific claims that the attorney's time devoted to the two areas advocated by TURN related to PURPA standards could be less than the total time devoted to the case. It is the total time of the attorney that TURN wants

compensation for. As TURN points out, the jurisdictional allocation issue pervaded TURN's preparation and participation. Although TURN did participate in other facets of the proceedings on a limited basis (mostly through cross-examination of witnesses), that participation was only incidental to its main role of advocating the growth share allocation method. It occurred only because TURN was already at the hearing for its primary purpose. We believe that, on these facts, it would be a futile exercise to try to isolate the attorney's time for that incidental participation. We will adopt the attorney's time requested by TURN as reasonable for this phase of the proceeding.

The other expenses requested by TURN, \$2,348.28, are less than 5% of the total, appear to be reasonable, and will be adopted.

Findings of Fact

1. Under Article 18.5 of the Commission's Rules, TURN requests an award of \$48,656.28 for its participation in this proceeding.
2. D.93545 found TURN eligible for PURPA compensation in this proceeding.
3. TURN has made a substantial contribution to the implementation of PURPA in this proceeding which is reflected in D.82-05-042 and D.82-07-116. That contribution covered standards for cost of service and declining block rates.
4. An award of compensation to TURN in the amount of \$48,656.28 is reasonable.
5. Because TURN has already expended some of the funds requested and provided the services covered by the award, this decision should be effective on the date signed.

Conclusion of Law

TURN has complied with the requirements of Article 18.5 of this Commission's Rules and should be awarded compensation in the amount noted in the following order.

IT IS ORDERED that:

1. Within 30 days from the effective date of this order Pacific Power & Light Company (Pacific) shall pay to Toward Utility Rate Normalization \$48,656.28.

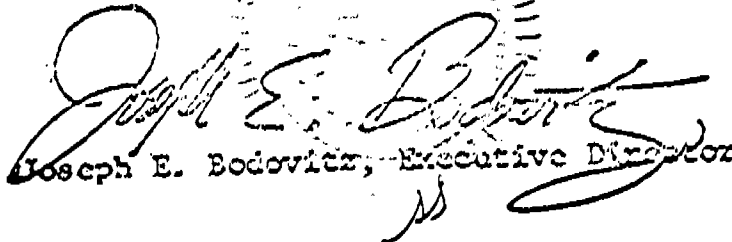
2. In its first general rate case following this decision, Pacific shall include in its California intrastate revenue requirement an amount sufficient to reimburse it for the \$48,656.28 award.

This order is effective today.

Dated NOV 17 1982, at San Francisco, California.

JOHN E. BRYSON  
President  
RICHARD D. GRAVELLE  
LEONARD M. GRIMES, JR.  
VICTOR CALVO  
PRISCILLA C. CREW  
Commissioners

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

  
Joseph E. Bodovitz, Executive Director

APPENDIX A  
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M. Florio - Attorney Fees:  
359 hours x \$75 \$26,925.00

F. Wells - Witness Fees:  
276.9 hours x \$70 \$19,383.00

Other Reasonable Costs:

Witness Travel + Expenses	\$ 756.31
Attorney Travel + Expenses	490.36
Copying of Pleadings	388.57
Mailing Expenses	69.77
Long-Distance Telephone	396.64
Special Typing Services	163.00
Miscellaneous	<u>83.63</u>

Total \$48,656.28



APPENDIX A  
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Time Spent by Attorney M. Florio

<u>Week - 1981</u>	<u>Total Hours</u>	<u>Work</u>
5/26-29	1	Review application
6/15-19	2	Data Requests, etc.
6/21-26	10	Prep, Data Requests
8/3-7	2	Prehearing Conference
8/10-14	5	Preparation
8/17-21	10	Preparation
8/23-28	2½	Eligibility Filing
9/8-11	33	Preparation
9/13-19	76½	Hearings, travel, prep
9/20-25	58	Hearings, prep
10/5-9	22½	Preparation
10/12-16	30½	Hearings, prep
10/19-23	9	Hearings, prep
10/26-30	36½	Brief
11/1-7	38	Brief
11/10-14	7	Brief
11/16-20	13	Oral Reply, prep
<u>1982</u>		
2/26	½	ERTA material
5/3	1	Staff Inquiry
5/7	<u>1</u>	Review Decision
Total	359	

(END OF APPENDIX A)