

Decision S3 08 049 AUG 17 1983

ORIGINAL

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.

Application 60153
(Filed December 23, 1980)

Application of PACIFIC GAS AND ELECTRIC COMPANY for authority to increase its electric rates and charges effective August 1, 1981, to establish an annual energy rate and to make certain other rate charges in accordance with the energy cost adjustment clause as modified by Decision No. 92496.

Application 60616
(Filed June 2, 1981)

(Electric)

(See Decision 82-12-113 for appearances.)

ORDER ON REQUEST FOR AWARD OF
PURPA COMPENSATION

By a petition filed January 27, 1983, Toward Utility Rate Normalization (TURN) requests an award of compensation and fees for its participation in this proceeding. The request is made under Rule 76.06 of our Rules of Practice and Procedure. The amount requested was initially \$42,637.60 which included attorney's fees of \$75 per hour. The petition was amended on June 17, 1983 to increase the request to \$49,300.10 plus interest which reflected increased attorney's fees of \$100 per hour.

Substantial Contribution

TURN's filing shows that its participation substantially contributed to the adoption of a Public Utility Regulatory Policies

Act (PURPA) position that is related to the PURPA cost of service standard. The PURPA position was the adoption of a three-tier residential rate structure. TURN was the only party who advocated adoption of this rate structure.

Pacific Gas and Electric Company (PG&E) responded that TURN advocated three issues in the proceeding:

1. Three tier residential rates.
2. A new allocation method.
3. A method of prorating bills during seasonal lifeline changes.

Since only two of the issues were PURPA issues and since only one (three-tier rates) was adopted, PG&E suggests that TURN be audited to determine the time and expenses which are related to the adopted issue.

While it is true that only one of TURN's positions was adopted and that TURN failed to allocate time and expenses to the separate issues, we do not believe that an audit is necessary. Instead we will make such an allocation ourselves. In arriving at our adjustment, we note that one of the principal reasons that TURN's allocation proposal was not adopted was because its allocation and rate design proposals were intimately intertwined and not separable. It appears that if TURN had made only a rate design proposal then it would have required more than half of its effort in this case. Since TURN failed to allocate its efforts by issue we believe that a conservative amount of 50% of TURN's request is appropriate.

Compensation

TURN originally proposed that the attorney's fees of \$75 per hour be awarded although it felt that \$90-\$100 per hour would more reasonably reflect "prevailing market rates for persons of comparable training and experience" and also be no greater than such fees paid by this Commission (Rule 76.02(i)). TURN later amended its request to reflect the \$100 per hour figure. The amendment is based primarily on the contingent nature of the awarding of fees. TURN believes that the highly contingent nature of recovery of expenses

warrants a somewhat higher hourly fee. We agree. We will therefore allow the \$100 per hour attorney fee.

TURN's amended petition also seeks interest on any award because of the decision lag. We note two facts. 1. Our rules do not provide for such an interest accrual and 2. TURN has not been materially harmed by the delay. Rather it appears that TURN took advantage of the delay to amend its request, part of which we grant in this decision.

Findings of Fact

1. By this petition TURN requests an award of \$49,300.10 plus interest.

2. TURN was previously found eligible for compensation by Decision 92795 in this proceeding.

3. TURN's total cost of participation in this proceeding is as follows:

Attorney's Fees	266.5 x \$100 =	\$26,650.00
Witness Fees	274.25 x \$75 =	20,569.00
Expenses		<u>2,081.35</u>
Total		= \$49,300.35

4. TURN's petition failed to allocate its costs to specific advocated issues.

5. TURN advocated (1) a new method to allocate the revenue requirement to the customer classes (2) a three-tier residential rate design and (3) prorationing of customer bills during periods of change.

6. Allocation methodology and residential rate structure are PURPA issues related to the PURPA cost of service standard.

7. TURN's total PURPA advocacy was equally divided between the allocation and rate design issues with very little effort spent on the prorationing issue.

8. TURN was the sole advocate of the three-tier residential rate design.

9. Decision 82-12-113 adopted the three-tier residential rate design but did not adopt TURN's allocation method.

10. TURN's attorney's fees of \$100 per hour is reasonable.

11. An award of compensation of half of TURN's total cost (\$24,650.18) is reasonable.

12. Our Rules of Practice and Procedure do not provide for the accrual of interest on an award issued by a decision which is beyond the contemplated date.

Conclusion of Law

TURN has complied with the requirements of Article 18.5 of this Commission's Rules of Practice and Procedure 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 Gas and Electric Company (PG&E) shall pay to Toward Utility Rate Normalization (TURN) \$24,650.18.

2. In PG&E's next rate application which seeks to change base rates, PG&E shall include in its California intrastate revenue requirement an amount sufficient to reimburse it for the \$24,650.18 award.

This order becomes effective 30 days from today.

Dated AUG 17 1983, at San Francisco, California.

VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners

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

Commissioner Leonard M. Grimes, Jr.,
being necessarily absent, did not
participate.


Joseph E. Boedvitz, Executive Director

warrants a somewhat higher hourly fee. We agree. This case is a perfect illustration. TURN has expended many hours and hired an expert witness to put on a very complicated showing in a highly professional manner. But because a major part of its showing was not adopted it will not be compensated completely. We will therefore allow the \$100 per hour attorney fee.

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