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Decision 95-11-036 November 21, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's own motion to change the structure of gas utilities' procurement practices and to propose refinements to the regulatory framework for gas utilities. (Filed February 7, 1990)

Order Instituting Rulemaking into natural gas procurement and system reliability issues. (Filed August 10, 1988)

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decision which determines whether or not the customer has paid a portion and the amount of compensation to be paid to people with comparable training and experience who offer

This decision grants Toward Utility Rate Normalization (TURN) an award of compensation in the amount of \$46,428 for TURN's contributions to Decision (D.) 95-07-048, D. 94-04-0277 and D. 93-07-053, all of which addressed the core aggregation transportation (CAT) program for the state's three largest gas utilities. (Requirements for an Award of Compensation)

Intervenors who seek compensation for their participation in Commission proceedings must file requests for compensation pursuant to Public Utilities Code Sections 1801-1812. Section 1804 (a) requires an intervenor to file a notice of intent to claim compensation within 30 days of the prehearing conference or by a date established by the Commission. The notice of intent must present information regarding the nature and extent of compensation and may request a finding of eligibility at that time. TURN fulfilled this requirement and was found to be eligible for compensation in these proceedings in D. 91-12-055. Section 1804 (c) requires an intervenor requesting compensation to provide a detailed description of services and

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expenditures and a description of the customer's substantial contribution to the hearing or proceeding. Section 1802(h)

states that "substantial contribution" means that 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 has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer.

Section 1804(e) requires the Commission to issue a

decision which determines whether or not the customer has made a substantial contribution and the amount of compensation to be paid. The level of compensation must take into account the market rates paid to people with comparable training and experience who offer similar services consistent with Section 1806. TURN has

fulfilled these requirements as follows: TURN'S Contribution to Resolution of CAT Issues

TURN describes its role in the CAT proceedings as somewhat unusual. Rather than take a position (that is highly adversarial to the utility, which is its usual role, TURN addressed the interests of small (core) customers by proposing the development of competition in core transportation markets while assuring that customers without competitive options would not be penalized. TURN's efforts to promote core customers' interests in this proceeding put it more or less in the middle of more extreme positions presented by utilities on the one hand and potential competitors on the other. TURN observes that the parties relied on alternatives to litigation in this proceeding to a very substantial degree. TURN states it was active in these discussions. TURN joined the agreements and joint filings that were approved in D.93-07-053 and D.94-04-027 and D.93-07-053 adopted a proposal filed by a number of parties including TURN that protected CAT customers from a change

in Federal Energy Regulatory Commission rate design policy, specifically its move from a modified fixed-variable to straight fixed-variable rate design. D.94-04-027 adopted a joint petition to modify which extended the sunset date for the initial experimental CAT programs and established a process for considering the potential growth in the volume of CAT participation.

TURN states it also participated extensively in the development of the settlement that was approved in D.95-07-048, but ultimately chose not to sign the agreement because it believed the effect of the agreement would be to preclude the consideration of more fundamental program issues. In addition to adopting the settlement, D.95-07-048 also stated the Commission's intent to move forward with unbundling interstate pipeline demand charges from CAT rates and thereby provide core customers opportunities to participate in competitive markets for interstate transportation. The order adopted brokerage fees for core aggregation customers. TURN filed briefs, presented testimony, and cross-examined witnesses on related issues and the Commission adopted several of TURN's factual contentions and policy proposals.

We find that TURN made substantial contributions to D.95-07-048, D.94-04-027, and D.93-07-053.

TURN's Compensation Request

TURN requests \$45,173 for the work of its attorneys, M. P. Florio, P. V. Allen, and T. L. Mueller. M. P. Florio also acted as witness in the hearings leading up to D.95-07-048. It seeks an additional \$1,155 for postage, copying, and telephone expenses. The attorney fees reflect about 237 hours of time in meetings and hearings, and drafting documents.

M. P. Florio:

45.50 hours @ \$250 (1994-95) = \$11,375. A
41.00 hours @ \$235 (1993-94) = \$9,635
8.25 hours @ \$210 (1992-93) = \$1,733
Total: \$22,743

P. V. Allen: 28,75 hours (1994) 5,619
14,25 hours (Travel) 92 (1994) 16,720
104,50 hours (1994-95) 16,720
Subtotal \$45,173

Considering the numerous policy and technical issues that arose in the context of the three Commission orders in question, TURN's attorney and witness time is reasonable. TURN calculates its request by applying attorney fee levels for Mike Florio and Peter Allen that have been approved in other proceedings for the periods in question. We find that these levels are reasonable in this case.

TURN does not propose an allocation of its compensation award between the three affected utilities, Southern California Gas Company, Pacific Gas and Electric Company, and San Diego Gas & Electric Company (SDG&E). We will allocate 20% of TURN's compensation award to SDG&E and 40% to each of the other two utilities in recognition of their larger size.

Findings of Fact

1. D.95-07-048, D.94-04-027, and D.93-07-053 resolved numerous policy and technical issues related to the Commission's CAT program.

TURN participated in hearings and settlement discussions leading up to the three orders addressing the Commission's CAT program. The Commission adopted some of TURN's litigated proposals and the settlements TURN signed.

3. TURN made substantial contributions in D.95-07-048, D.94-04-027, and D.93-07-053.

4. TURN requests attorney fees that have been approved by the Commission in other proceedings for the individual attorneys and for the time periods during which the attorneys participated in this proceeding.

Conclusions of Law TURN has fulfilled the requirements of Sections 1801-1812 which govern awards of intervenor compensation. The Commission should grant TURN \$46,428 for its contributions to D.95-07-048, D.94-04-027, and D.93-07-053.

ORDER This order is effective as to the

Dated November 2, 1995 at San Francisco, California

IT IS ORDERED that:

1. Toward Utility Rate Normalization (TURN) is awarded \$46,428, plus interest, in compensation for its contributions to Decision (D.) 95-07-048, D. 94-04-027, and D.93-07-053.
2. Southern California Gas Company shall, within 30 days of the effective date of this order, pay TURN \$18,571.20, plus interest at the rate earned on prime, three-month commercial paper, as reported in the Federal Reserve Statistical Release G.13, with interest, beginning November 2, 1995 and continuing until full payment is made.
3. Pacific Gas and Electric Company shall, within 30 days of the effective date of this order, pay TURN \$18,571.20, plus interest at the rate earned on prime, three-month commercial paper, as reported in the Federal Reserve Statistical Release G.13, with interest, beginning November 2, 1995 and continuing until full payment is made.

4. San Diego Gas & Electric Company shall, within 30 days of the effective date of this order, pay TURN \$9,285,607 plus interest at the rate earned on prime, three-month commercial paper as reported in the Federal Reserve Statistical Release G.13, with interest beginning November 27, 1995 and continuing until full payment is made.

This order is effective today.

Dated November 21, 1995, at San Francisco, California.

IT IS ORDERED that:

1. To pay utility rate normalization (TURN) is awarded \$46,438, President DANIEL Wm. FESSLER, in compensation for his contributions to P. GREGORY CONLON Decision (D.90-04-027, and D.93-07-023).
2. South Pacific Gas Company shall, within 30 days of the effective date of this order, pay TURN \$18,271.20, plus interest at the rate earned on prime, three-month commercial paper as reported in the Federal Reserve Statistical Release G.13, with interest beginning November 2, 1995 and continuing until full payment is made.
3. Pacific Gas and Electric Company shall, within 30 days of the effective date of this order, pay TURN \$18,271.20, plus interest at the rate earned on prime, three-month commercial paper as reported in the Federal Reserve Statistical Release G.13, with interest beginning November 2, 1995 and continuing until full payment is made.

HENRY M. DUQUE, JR. Commissioner
JESSIE J. KNIGHT, JR. Commissioner
JOSIAH L. NEPPER, Commissioner