

FEB 20 1997

Decision 97-02-047 February 19, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Decrease Its Rates and Charges for Electric and Gas Service, and Increase Rates and Charges for Pipeline Expansion Service.

Application 94-12-005
(Filed December 9, 1994)

And a related matter.

Investigation 95-02-015
(Filed February 22, 1995)

OPINION**ORIGINAL**

This decision grants The Utility Reform Network (TURN) \$54,533.38 for its contributions to Decision (D.) 96-09-045 which resolved certain issues regarding electric distribution system service and safety.

I. Background

Intervenors may be eligible for compensation for their participation in our proceedings. Pursuant to Public Utilities (PU) Code Section 1802, intervenors qualify for compensation if they fulfill certain requirements. First, the intervenor must demonstrate "significant financial hardship." Consistent with PU Code Section 1802, the assigned administrative law judge issued a ruling, dated March 3, 1996, finding that TURN had demonstrated such financial hardship in its Notice of Intent to Claim Compensation, filed February 2, 1996.

PU Code Section 1802 also requires an intervenor to make a "substantial contribution" to a Commission order or decision which "adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer." The intervenor must then demonstrate that its requested expenses are reasonable. TURN filed the instant request for compensation on November 5, 1996. The request seeks findings that it has made substantial contributions to D.96-09-045 and that its requested compensation is reasonable. No party protested TURN's request.

II. Substantial Contribution

TURN seeks compensation for its contributions to D.96-09-045 in which we established certain prescriptive standards and procedural guidance on topics related to the electric utilities' distribution systems. We initiated an investigation of appropriate service standards for electric distribution systems following a review of the performance of Pacific Gas and Electric Company (PG&E) during winter storms in 1994 and 1995. Recognizing that we did not have adequate benchmarks to measure utility reliability and service quality, we issued D.95-09-073 which, among other things, directed the utilities and our staff to attend workshops and recommend related standards. The Commission Advisory and Compliance Division (CACD, now subsumed by the creation of several new technical divisions) issued a report in February 1996 memorializing those workshops and recommending the Commission adopt certain standards for system reliability and a method for reviewing the efficacy of utility maintenance efforts, among other things. The Commission subsequently used the report and written comments on its proposals as a foundation for D.96-09-045.

TURN states it made a substantial contribution to D.96-09-073 in several ways. It proposed the development of electric distribution system standards in a generic proceeding, a recommendation we adopted in D.95-09-073. TURN attended workshops, participated in the discussions there, and filed associated comments.

More specifically, TURN observes that the Commission adopted its proposal to identify individual circuits that perform poorly and to require the utilities to disclose service and safety information to the public. It states it also assisted in developing proposed utility inspection and maintenance plans which are part of the groundwork for the development of associated rules.

TURN observes that the workshop format used in this proceeding is an alternative to litigation which the Commission has encouraged and in this case ordered. It cites Commission policy to award compensation for participation in cases where alternative procedures were employed to reach agreements or proposals for the Commission's consideration. (See, for example, D.95-08-024.)

TURN has made a substantial contribution to D.96-09-045 by participating in the workshops and filing comments on the issues raised there. Consistent with existing policy, we compensate TURN for its efforts in the process although the Commission did not adopt all proposals set forth in the workshop report. The understandings and agreements reached in the workshops formed the basis for D.96-09-045 and our ongoing

investigation into electric utility service and safety. Having found TURN made a substantial contribution to D.96-09-045, we proceed to address the reasonableness of TURN's requested level of compensation.

III. TURN's Requested Compensation

TURN seeks \$56,403.88 for its contribution to D.96-09-045. Of this, TURN seeks \$22,432.50 for the time of its attorneys, Michael P. Florio and Thomas P. Corr. It seeks \$31,910.00 for the work of its experts and \$2,061.38 for expenses related to photocopying, postage, and travel. TURN presents a detailed summary of these expenses which shows hours billed by experts and attorneys.

TURN believes it is entitled to recover all of the costs it estimates.

A. Rates for Experts and Consultants

TURN states the hourly rates it requests for JBS Energy Inc. and M. DeRosa and Associates, its outside experts and consultants, reflect the actual recorded or billed costs that TURN incurred. TURN states the billed rates for JBS Energy Inc. staff are \$5 more an hour than the rates previously authorized by the Commission and represents the first rate increase for these experts in two years.

We deny TURN's request for the rate increase for lack of sufficient showing. If TURN seeks to increase the billing rates for work performed by its consulting experts in 1996, it must present convincing arguments that such an increase is reasonable in light of comparable market rates and awards made to other experts with comparable experience in our proceedings. For the hours of effort expended by Schilberg and Nahigian we will retain the rates previously authorized for these experts. Our decision today does not preclude TURN from seeking a higher rate for JBS Energy Inc. staff in a subsequent request for compensation; however, the burden of justification rests with TURN. This reduces TURN's request by \$692.50.

We do approve the requested hourly rate of \$75 for Mel DeRosa. As TURN explains, DeRosa has more than 20 years of experience in various supervisory and management positions involving electric distribution facility maintenance and repair for a major California investor-owned utility. The requested rate is well within the range we have approved for other experts who make showings on system operations and planning practices. (See, for example, D.96-02-011.)

TURN also requests full hourly rates for its attorneys for the preparation of TURN's compensation request. As we discussed in D.96-08-023, we have held that compensation requests are essentially bills for services, and do not require a lawyer's

skill to prepare. Accordingly, we have reduced the attorney's rates for time spent preparing the compensation request, except in cases where the compensation claim involves technical and legal analysis deserving of compensation at higher rates. We do not believe that TURN's compensation request in this proceeding is such a case. Accordingly, we authorize recovery for time spent preparing the compensation request at one-half of Thomas Corr's and Michael Florio's hourly rate. This reduces TURN's request by \$1,509.

B. Rates for Attorneys

TURN requests \$260 an hour for the work of its attorney, Florio, and \$225 an hour for the work of its attorney, Corr. These are rates which we have already approved for these two attorneys and we will use them in calculating TURN's final award.

C. Expenses

TURN's request for \$2,061.38 for expenses related to mailing, photocopying, and travel is reasonable.

D. Allocation of Award

This proceeding involved five electric utilities. TURN recommends the following allocation among them be applied: PG&E - 30%; Southern California Edison Company - 30%; San Diego Gas and Electric Company - 20%; Pacific Power and Light Corporation - 10%; Sierra Pacific Power Corporation - 10%. We have not received any protest from a utility with regard to these allocations and find them reasonable.

Findings of Fact

1. TURN made a substantial contribution to D.96-09-045.
2. TURN was found eligible for compensation in this proceeding and found to have demonstrated financial hardship under PU Code Section 1804(b) by an Administrative Law Judge ruling dated March 3, 1995.
3. TURN's requested hourly rates for its attorneys are reasonable.
4. TURN has requested an hourly rate for DeRosa that is justified by his experience and within the range we have approved for work done by other utility operations and planning experts.
5. TURN did not provide sufficient showing to justify an increase in hourly rates for the work done in 1996 by JBS Energy Inc. staff.

Conclusion of Law

TURN should be awarded \$51,533.38 for its contribution to D.96-09-045.

O R D E R

IT IS ORDERED that:

1. The Utility Reform Network (TURN) is awarded \$51,533.38 in compensation for its substantial contribution to Decision 96-09-045.
2. Pacific Gas and Electric Company shall, within 30 days of the effective date of this order, pay TURN \$16,360.01 plus interest at the rate earned on prime, three-month commercial paper as reported in the Federal Reserve Statistical Release G.13, such interest beginning January 19, 1995 and continuing until full payment is made.
3. Southern California Edison Company shall, within 30 days of the effective date of this order, pay TURN \$16,360.01 plus interest at the rate earned on prime, three-month commercial paper as reported in the Federal Reserve Statistical Release G.13, such interest beginning January 19, 1995 and continuing until full payment is made.
4. San Diego Gas and Electric Company shall, within 30 days of the effective date of this order, pay TURN \$10,906.68 plus interest at the rate earned on prime, three-month commercial paper as reported in the Federal Reserve Statistical Release G.13, such interest beginning January 19, 1995 and continuing until full payment is made.
5. Sierra Pacific Power Corporation shall, within 30 days of the effective date of this order, pay TURN \$5,453.34 plus interest at the rate earned on prime, three-month commercial paper as reported in the Federal Reserve Statistical Release G.13, such interest beginning January 19, 1995 and continuing until full payment is made.
6. Pacific Power and Light Corporation shall, within 30 days of the effective date of this order, pay TURN \$5,453.34 plus interest at the rate earned on prime, three-month commercial paper as reported in the Federal Reserve Statistical Release G.13, such interest beginning January 19, 1995 and continuing until full payment is made.

This order is effective today.

Dated February 19, 1997, at San Francisco, California.

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners