

Decision 98-12-007 December 3, 1998

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Gas Company for an Expedited Procedure for the Approval of Long-Term Negotiated Discount Contracts.

Application 92-07-047
(Filed July 24, 1992)

Application of Pacific Gas And Electric Company for the Establishment of an Expedited Approval Procedure for Competitive Gas Contracts.

Application 92-07-049
(Filed July 28, 1992)

OPINION

This decision grants The Utility Reform Network (TURN) an award of \$12,942, in compensation for its contribution to Decision (D.) 94-09-070.

1. Background

In D.94-09-070, the Commission approved Pacific Gas and Electric Company's (PG&E) petition for modification of D.92-11-052, wherein PG&E sought approval of a long-term gas service tariff, Schedule G-LT. The approval came with certain conditions. PG&E filed an application for rehearing of the decision. The adoption of the Gas Accord ultimately mooted PG&E's perceived need for Schedule G-LT, and PG&E moved to withdraw its original petition on February 13, 1998. In D.98-03-038, the Commission granted PG&E's motion to withdraw, vacated D.94-09-070, and declared the related applications for rehearing and petition for modification to be moot.

2. Requirements for Awards of Compensation

Intervenors who seek compensation for their contributions in Commission proceedings must file requests for compensation pursuant to Public Utilities Code §§ 1801-1812. Section 1804(a) requires an intervenor to file a notice of intent (NOI) to claim compensation within 30 days of the prehearing conference or by a date established by the Commission. The NOI must present information regarding the nature and extent of compensation and may request a finding of eligibility.

Other code sections address requests for compensation filed after a Commission decision is issued. Section 1804(c) requires an intervenor requesting compensation to provide "a detailed description of services and 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 on one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer. Where the customer's participation has resulted in a substantial contribution, even if the decision adopts that customer's contention or recommendations only in part, the commission may award the customer compensation for all reasonable advocate's fees, reasonable expert fees, and other reasonable costs incurred by the customer in preparing or presenting that contention or recommendation."

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 rate paid to people with comparable training and experience who offer similar services, consistent with § 1806.

3. Eligibility to Claim Compensation and Timeliness of Request

TURN was found eligible for compensation for its participation in this proceeding in D.93-06-073, an earlier decision in this docket which awarded TURN compensation. TURN filed this request on May 18, 1998, within 60 days from the issuance of the final order or decision, D.98-03-038, as required by statute. (See § 1804(c).)

4. Contributions to Resolution of Issues

TURN identifies three specific recommendations it put forward that were adopted by the Commission. First, in D.94-09-070, the Commission noted with approval PG&E's acceptance of the accounting and backbone credit issues raised by TURN. Second, the Commission conditioned its approval of PG&E's request on the certification by a PG&E officer that ratepayers would be protected under all circumstances from bearing the related revenue shortfalls. The third recommendation TURN identifies as adopted by the Commission was the condition that PG&E certify it would not seek rolled-in rates for the Expansion Project from the Federal Energy Regulatory Commission in the event of a jurisdictional transfer.

We agree with TURN that it made a substantial contribution to D.94-09-070 as described above. We further find that TURN's participation was not duplicative of any other party.

5. The Reasonableness of Requested Compensation

TURN requests compensation in the amount of \$13,698 as follows:

Attorney's Fees

Michel Florio

21.25	hours x	\$235 (93-94)	=	\$ 4,994
11.25	hours x	\$250 (94-95)	=	\$ 2,813
5.50	hours x	\$275 (97-98)	=	\$ 1,512

Theresa Mueller					
26.25	hours x	\$160 (94-95)	=	\$	4,200
Miscellaneous Costs					
Photocopying expenses			=	\$	130
Postage Costs			=	\$	31
Attorney Expenses			=	\$	<u>18</u>
TOTAL Request				=	\$13,698

5.1. Hours Claimed

TURN submitted a detailed breakdown of the time claimed by each of its attorneys in this stage of the proceeding. TURN states that these hours include only time spent on the issues related to Schedule G-LT. Hours spent on other issues covered in other phases of the consolidated dockets, TURN stated, are not included, nor are the hours spent preparing TURN's petition for modification declared moot by the Commission in D.98-03-038.

TURN has appropriately allocated its hours for the single issue, review of Schedule G-LT, and spent 5.5 hours preparing the instant request. We find the claimed hours a reasonable expenditure of time for the importance of this matter to ratepayers and the substantial contribution made.

5.2. Hourly Rates

The hourly rates TURN requests for Mr. Florio and Ms. Mueller have all been previously approved. The services performed by these attorneys over the time periods noted are comparable to the services performed when the rates were initially approved. Therefore, it is reasonable to apply the previously-adopted rates here.

The Commission has a practice of awarding only half the otherwise applicable attorney's rate for the time spent on preparing the compensation

request when the preparation of the request did not require the skill of an attorney to prepare.¹ This was not a complex, multi-issue request, and it did not present original argument supporting any hourly rate increases. We will therefore apply ½ the otherwise applicable hourly rate for the 5.5 hours spent by Mr. Florio in 1998 preparing the request.

5.3. Other Costs

TURN has requested \$179 for miscellaneous costs (photocopying, postage, and attorney expenses). TURN explains that the "attorney expenses" it includes are for parking costs incurred by TURN's attorneys in attending various meetings regarding Schedule G-LT. TURN does not otherwise explain this category of its other costs. We note that expenses associated with non-Commission sponsored events are not compensable. (See D.96-08-040, mimeo. at 62.) Given the very small amount at issue here, we will not reduce TURN's award of other costs. We caution TURN, however, to provide adequate documentation for us to evaluate whether future claimed "attorney expenses" are compensable. With that caution, we find TURN's claimed miscellaneous costs to be reasonable.

6. Award

We award TURN \$12,942 for its substantial contribution to D.94-09-070.

Consistent with previous Commission decisions, we will order that interest be paid on the award amount (calculated at the three-month commercial paper rate), commencing August 1, 1998 (the 75th day after TURN filed its complete compensation request) and continuing until the utility makes its full payment of award.

¹ D.93-06-022 at 6, D.93-09-086 at 9, and D.91-12-074 at 14.

As in all intervenor compensation decisions, we put TURN on notice that the Commission's Energy Division may audit TURN records related to this award. Thus, TURN must make and retain adequate accounting and other documentation to support all claims for intervenor compensation.

TURN records should identify specific issues for which it requests compensation, the actual time spent by each employee, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation may be claimed.

Findings of Fact

1. TURN has made a timely request for compensation for its contribution to D.94-09-070.
2. TURN made a substantial contribution to D.94-09-070.
3. It is reasonable to apply the previously-adopted hourly rates TURN requests for services performed by Mr. Florio and Ms. Mueller, with the exception of the 5.5 hours Mr. Florio spent preparing the compensation request. Those hours should be compensated at ½ the rate Mr. Florio requests for 1997-98.
4. The miscellaneous costs incurred by TURN are reasonable.

Conclusions of Law

1. TURN has fulfilled the requirements of §§ 1801-1812 which govern awards of intervenor compensation.
2. TURN should be awarded \$12,942 for its contribution to D.94-09-070.
3. This order should be effective today so that TURN may be compensated without unnecessary delay.
4. All outstanding issues having been addressed, this proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. Toward Utility Rate Normalization (TURN) is awarded \$12,942 in compensation for its substantial contribution to Decision 94-09-070.
2. Pacific Gas and Electric Company (PG&E) shall pay TURN \$12,942 within 30 days of the effective date of this order. PG&E shall also pay interest on the award at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release G.13, with interest, beginning August 1, 1998, and continuing until full payment is made.
3. Application (A.) 92-07-047 and A.92-07-049 are closed.

This order is effective today.

Dated December 3, 1998, at San Francisco, California.

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