

Decision 99-05-014 May 13, 1999

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of SOUTHERN CALIFORNIA  
GAS COMPANY for Authority to  
Implement Peaking Service Rates.

Application 93-12-017  
(Filed December 22, 1993)

(U 904 G)

**O P I N I O N**

This decision grants The Utility Reform Network (TURN) an award of \$7,880.00 in compensation for contributions to Decision (D.) 95-07-046. That decision adopted a residual load service or "peaking" rate for Southern California Gas Company (SoCal).

**1. Background**

The Commission considered SoCal's application after the company met with TURN to discuss ways to forestall uneconomic bypass of SoCal's system. The application proposed a peaking rate that the Commission adopted in D.95-07-046.

TURN filed this request for compensation on February 19, 1999 following issuance of D.98-12-097, which denied rehearing of D.95-07-046.

**2. Requirements for Awards of Compensation**

Intervenors who seek compensation for their contributions in Commission proceedings must file requests for compensation pursuant to Pub. Util. 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 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 that 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. NOI to Claim Compensation**

TURN filed an NOI to claim compensation in this proceeding on March 18, 1994, fulfilling the requirements of Section 1804(a).

**4. Contributions to Resolution of Issues**

A party may make a substantial contribution to a decision in three ways.<sup>1</sup> It may offer a factual or legal contention upon which the Commission relied in making a decision.<sup>2</sup> Or it may advance a specific policy or procedural recommendation that the Administrative Law Judge (ALJ) or Commission adopted.<sup>3</sup> A substantial contribution includes evidence or argument that supports part of the decision even if the Commission does not adopt a party's position in total.<sup>4</sup> The Commission has provided compensation even when the position advanced by the intervenor is rejected.<sup>5</sup>

In this proceeding, TURN presented testimony in support of SoCal's proposal generally and offered reasoning reflected in the Commission's decision. Although TURN's position was similar to the SoCal's, TURN observes that its position and the proposal in the application followed negotiations with SoCal, making the proposal similar to a settlement. TURN also observes that the SoCal ultimately endorsed portions of TURN's position which were not identical to SoCal's original proposal.

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<sup>1</sup> Cal. PUC § 1802(h).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> D.89-03-96 (awarding San Luis Obispo Mothers For Peace and Rochelle Becker compensation in Diablo Canyon Rate Case because their arguments, while ultimately unsuccessful, forced the utility to thoroughly document the safety issues involved).

TURN has demonstrated that it made a substantial contribution to D.95-07-046. The Commission adopted most elements of TURN's position. By engaging in initial discussions with the SoCal and negotiating with the SoCal regarding the final proposal, TURN appears to have made very efficient use of time and resources of the Commission and the parties.

**5. The Reasonableness of Requested Compensation**

TURN requests compensation in the amount of \$7,880 as follows:

Michael Florio, Attorney:

7.75 hours @ \$210 (1992-1993)	\$1,628.00
19 hours @ \$235 (1993-1994)	4,465.00
.75 hours @ \$250 (1994-1995)	188.00
4 hours @ \$145 (1998-1999)	580.00

Peter Allen, Attorney:

3.75 hours @ \$185 (1994)	693.00
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Travel or Photocopying, postage	326.00
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<b>Total</b>	<b>\$7,880.00</b>
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**5.1. Hours Claimed**

TURN seeks compensation for all work related to SoCal's peaking rate proposal. Because the proceeding involved a single issue, TURN did not need to allocate time between issues as Commission rules require in cases addressing multiple issues. The hours TURN claims are few compared to the work required in most proceedings, and TURN convinces us that they are reasonable.

### **5.2. Hourly Rates**

Section 1806 requires the Commission to compensation eligible parties at a rate that reflects the "market rate paid to persons of comparable training and experience who offer similar services."<sup>6</sup> TURN seeks funding for the work of two attorneys.

**Michael Florio.** TURN seeks compensation for Mr. Florio at hourly rates for each year which have been approved by the Commission in past decisions. It discounts by 50% the rate for work undertaken on this compensation request, consistent with our policy. Mr. Florio's hourly rates are reasonable for purposes of this request.

**Peter Allen.** TURN seeks an hourly rate for Mr. Allen that was approved in a previous decision and so apply it to the award requested herein.

### **5.3. Other Costs**

TURN claims \$326 for travel or photocopying postage costs, a small sum which we adopt here.

## **6. Award**

We award TURN \$7,880 for contributions to D.95-07-046. 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 May 5, 1999, the 75<sup>th</sup> day after TURN filed this compensation request and continuing until the utility makes its full payment of award.

## **7. Allocation of Award Among Utilities**

All of the award granted today shall be paid by SoCal, because it is the only utility affected by TURN's participation in this proceeding.

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<sup>6</sup> Cal. PUC § 1806.

## **8. Comments on Draft Decision**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

### **Findings of Fact**

1. TURN timely requests compensation for contributions to D.95-07-046 as set forth herein.
2. TURN requests hourly rates for its attorney and consultant that have already been approved by the Commission.
3. The miscellaneous costs incurred by TURN in this proceeding are reasonable.

### **Conclusions of Law**

1. TURN has fulfilled the requirements of Sections 1801-1812, which govern awards of intervenor compensation.
2. TURN should be awarded \$7,880 for contributions to D.95-07-046 in this proceeding.
3. This order should be effective today so that TURN may be compensated without unnecessary delay.

**O R D E R**

**IT IS ORDERED** that:

1. The Utility Reform Network (TURN) is awarded \$7,880 as set forth herein for substantial contributions to Decision 95-07-046.

2. Southern California Gas Company shall, within 30 days of this order, pay TURN \$7,880, 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 on May 5, 1999 and continuing until the full payment has been made.

This order is effective today.

Dated May 13, 1999, at San Francisco, California.

RICHARD A. BILAS  
President  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
Commissioners