Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) for Applying the Market Index Formula and As-Available Capacity Prices Adopted in D.07-09-040 to Calculate Short-Run Avoided Cost for Payments to Qualifying Facilities Beginning July 2003 and Associated Relief	Application 08-11-001 (Filed November 4, 2008)
And Related Matters	Rulemaking 06-02-013 Rulemaking 04-04-003 Rulemaking 04-04-025 Rulemaking 99-11-022

INTERVENOR COMPENSATION CLAIM OF THE UTILITY REFORM NETWORK AND DECISION ON INTERVENOR COMPENSATION CLAIM OF THE UTILITY REFORM NETWORK

Claimant: The Utility Reform Network			**For contribution to D.11-07-010, D.11-10-016 and D.12-03-006**
Claimed ($): $8,342			**Awarded ($):**
Assigned Commissioner: Ferron			**Assigned ALJ: Yip-Kikugawa[1]**
I hereby certify that the information I have set forth in Parts I, II, and III of this Claim is true to my best knowledge, information and belief. I further certify that, in conformance with the Rules of Practice and Procedure, this Claim has been served this day upon all required persons (as set forth in the Certificate of Service attached as Attachment 1).			
		Signature:	**/s/**
Date:	**5/4/12**	**Printed Name:**	**Robert Finkelstein**

PART I: PROCEDURAL ISSUES (to be completed by Claimant except where indicated)

[1] As described in D.10-12-035, the five proceedings covered by the settlement are co-assigned among four ALJs. D.10-12-035, p. 60. ALJ Yip-Kikugawa appeared to play the most central role in the process leading up to the issuance of D.11-07-010, D.11-10-016 and D.12-03-006.

A. Brief Description of Decision:	This Request for Compensation covers work associated with three decisions following up on D.10-12-035, the Commission decision approving the Qualifying Facility and Combined Heat and Power Settlement Agreement. The settling parties included the major electric utilities, representatives of the QF/CHP community, the Division of Ratepayer Advocates and TURN. In D.11-07-010, the Commission granted the petition for modification jointly filed by the settling parties and California Municipal Utilities Association (CMUA) proposing to clarify the extent to which transferred Municipal Departing Load (MDL) customers would be responsible for non-bypassable charges, such that new MDL customers would not be responsible for non-bypassable charges. In D.11-10-016, the Commission agreed that removing certain language it had added to D.11-07-010 would eliminate uncertainty about the future of the QF/CHP agreement and avoid further delay of the settlement effective date. And in D.12-03-006, the Commission granted motions seeking to withdraw various petitions for modification, and closed the proceedings, pursuant to Ordering Paragraph 6 of D.10-12-035.

B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	N/A	
2. Other Specified Date for NOI:		
3. Date NOI Filed:	May 19, 2011 (in A.08-11-011)	
4. Was the NOI timely filed?		
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:		
6. Date of ALJ ruling:		
7. Based on another CPUC determination (specify):	D.11-12-016 (see note below)	
8. Has the Claimant demonstrated customer or customer-related status?		
Showing of "significant financial hardship" (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:		
10. Date of ALJ ruling:		

11. Based on another CPUC determination (specify):	D.11-12-016 (see note below)	
12. Has the Claimant demonstrated significant financial hardship?		
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.12-03-006	
14. Date of Issuance of Final Order or Decision:	3/12/12	
15. File date of compensation request:	5/4/12	
16. Was the request for compensation timely?		

C. Additional Comments on Part I (use line reference # as appropriate):

#	Claimant	CPUC	Comment
	X		In D.11-12-016 the Commission awarded compensation to TURN for its substantial contributions to the decisions issued through early 2011. The decision indicated that TURN's Notice of Intent was timely filed, and that TURN met all other conditions for eligibility for an award of intervenor compensation. D.11-12-016, pp. 2-3. Pursuant to Rule 17.2 of the Commission's Rules of Practice and Procedure, having been found eligible for an award of compensation in the earlier phase of this proceeding means TURN remains eligible in this later phase of the same proceeding.

PART II: SUBSTANTIAL CONTRIBUTION (to be completed by Claimant except where indicated)

A. In the fields below, describe in a concise manner Claimant's contribution to the final decision (*see* § 1802(i), § 1803(a) & D.98-04-059). (For each contribution, support with specific reference to the record.)

Contribution	Specific References to Claimant's Presentations and to Decision	Showing Accepted by CPUC
In early 2011 the settling parties and California Municipal Utilities Association (CMUA) engaged in discussions seeking to resolve the issues raised by CMUA's application for rehearing of D.10-12-035. The discussions proved fruitful, and in April 2011, the settling parties and CMUA filed a petition for modification of D.10-12-035 proposing to clarify the extent to which transferred Municipal Departing Load (MDL) customers would be responsible for non-bypassable charges, and provided that new MDL customers would not be responsible for non-bypassable charges.	*Joint Petition for Modification of Decision No. 10-12-035*, filed 4/1/11.	

In D.11-07-010, the Commission granted the petition for modification jointly filed by the settling parties and California Municipal Utilities Association (CMUA) proposing to clarify the extent to which transferred Municipal Departing Load (MDL) customers would be responsible for non-bypassable charges, such that new MDL customers would not be responsible for non-bypassable charges.	D.11-07-010, issued July 15, 2011.	
The Commission included language in D.11-07-010 suggesting that the new agreement between the Settling Parties and CMUA could result in cost shifting from MDL to Direct Access (DA) and Community Choice Aggregation (CCA) customers. The decision stated that should such unrecovered costs attributable to MDL appear in the future, those costs would be the responsibility of the Settling Parties. Shortly thereafter the Settling Parties, joined by CMUA, petitioned to modify D.11-07-010 to correct identified errors in the decision's treatment of cost responsibility, and to set as the settlement effective date the date on which a Commission order granting the petition becomes final and non-appealable. In D.11-10-016, the Commission agreed that removing the identified language from the decision would be consistent with the absence of cost shifting risk given the time limits represented by the dates included in the Settlements, and would eliminate uncertainty about the future of the QF/CHP agreement. It also agreed with the Settling Parties that the settlement effective date would be the date on which the decision became final and non-appealable.	D.11-07-010, p. 7 and associated Conclusions of Law 3 and 4. *Joint Petition for Modification of Decision 11-07-010 and Request to Establish Settlement Effective Date and Grant Motion for Closure*, filed 7/28/11. D.11-10-016, Finding of Fact 8; Conclusions of Law 1-3.	
The Commission issued D.11-10-043 on October 24, 2011, dismissing the last remaining applications for rehearing of D.10-12-035. This decision became final and non-appealable on November 23, 2011, which thereby became the settlement effective date. In early December 2012 several motions were filed by all or subsets of the Settling Parties seeking to withdraw pending petitions and	*Joint Parties' Motion to Withdraw Pending Motions, Pleadings and Petitions for Modification in Rulemaking 99-11-022 and to Close Docket*, 12/2/11; *Motion to SCE Withdraw Claims and of Settling Parties to Close Docket*, 12/2/11; *Motion of Settling*	

other pleadings that were rendered moot with the final effectiveness of settlement. The Commission issued D.12-03-006 granting each of the motions and closing the proceeding.	*Parties to Withdraw Petitions for Modification and to Close Dockets R.04-04-003 and R.04-04-025*, 12/6/11. D.12-03-006, Conclusions of Law 1-7.	

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. **Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?**	**Yes**	
b. **Were there other parties to the proceeding with positions similar to yours?**	**Yes**	
c. **If so, provide name of other parties:** The Settling Parties included the three major electric utilities (PG&E, SCE and SDG&E), four representatives of the QF industry (the California Cogeneration Council, Cogeneration Association of California, Energy Producers and Users Coalition, and Independent Energy Producers Association), and the Division of Ratepayer Advocates. California Municipal Utilities Association (CMUA) joined with the Settling Parties in negotiating and presenting for the Commission's approval an agreement that obviated CMUA's pending application for rehearing. Of the Settling Parties, only TURN and DRA represented exclusively the interests of ratepayers.		
d. **Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:** As with TURN's earlier request for compensation in this matter, the demonstration regarding potential duplication of effort will be somewhat different than usual because the entirety of the substantive work included in this request occurred in the context of discussions among the settling parties about how to successfully implement the settlement and other strategic issues regarding matters related to the settlement. Thus there was never a TURN-only work product other than edits TURN prepared to documents other parties had taken the lead in drafting. TURN worked very closely with all of the other Settling Parties, including DRA, to avoid duplication and to ensure that our participation supplemented, complemented or contributed to that of the other parties. Once again, TURN generally took advantage of opportunities to have other settling parties make the initial drafting effort to the various pleadings that were jointly submitted, and thus limited our drafting activities to review and editing of initial drafts prepared by others. The very limited number of hours included in this request is evidence that TURN was successful in its efforts to coordinate with the other Settling Parties. In sum, TURN submits that the Commission should find that TURN took all reasonable steps to avoid duplication and, to the extent that there was any overlap, TURN's work supplemented and complemented that of DRA and the other parties opposed to the application.		

C. Additional Comments on Part II (use line reference # or letter as appropriate):

#	Claimant	CPUC	Comment

PART III: REASONABLENESS OF REQUESTED COMPENSATION (to be completed by Claimant except where indicated)

A. General Claim of Reasonableness (§§ 1801 & 1806):

a. Concise explanation as to how the cost of Claimant's participation **bears a reasonable relationship with benefits realized through participation (include references to record, where appropriate)**	CPUC Verified
In TURN's earlier request for compensation in this proceeding, TURN explained how our participation in the efforts to develop and achieve adoption of the Settlement achieved very substantial benefits, although it is more difficult than usual to precisely quantify such benefits. In D.11-12-016 (p. 9), the Commission found that costs of participation totaling approximately $335,000 were reasonable as compared to the benefits realized through TURN's participation. Here TURN's efforts were devoted to preserving the benefits achieved through the settlement by removing the uncertainty caused by challenges to that settlement and by setting the settlement effective date at the earliest date practicable under the circumstances. Given the very small amount of costs of participation in the post-settlement work covered by this request, the Commission should find that those costs bear a reasonable relationship to preservation of the benefits recognized in D.11-12-016.	
b. Reasonableness of Hours Claimed. This Request for Compensation includes less than 20 hours, reflecting the time that TURN's attorney devoted to the various tasks associated with the development and implementation of strategies to implement the Settlement Agreement as smoothly and as expeditiously as practicable. These tasks included a number of conference calls and one lengthier in-person meeting among the Settling Parties, a relatively large volume of e-mails as the Settling Parties developed and discussed strategies seeking to implement those strategies, and the review and editing of the pleadings associated with the three decisions covered by this request. Because TURN was able to rely upon other Settling Parties to do the bulk of the drafting of the various pleadings (and thanks to the high quality of the initial draft typically produced by the drafting party), TURN was able to keep the number of hours we devoted to these tasks to a relative minimum. TURN's request also includes 4.5 hours devoted to the preparation of this request for compensation. This is a very reasonable figure given that the request covers three separate decisions, each of which had a slightly different procedural path leading thereto.	

c. Allocation of Hours by Issue TURN typically allocates its daily time entries by activity codes to better reflect the nature of the work reflected in each entry. Here all of the substantive work included in this request for compensation would have been given the same activity code – Settlement Implementation. To the extent there were sub-categories of time devoted to the work covered by this request, they were delineated not by issue but rather by the relief sought – the original petition for modification to seek implementation of the agreement between the Settling Parties and CMUA; the follow-on petition for modification spawned by the unanticipated language added to D.11-07-010; and the various pleadings addressed in D.12-03-006. Another sub-category could be the general strategy and implementation discussions that were the topic of the 9/19/11 meeting among the Settling Parties and Commission staff – the meeting plus the discussions and preparation leading up to the meeting total 5.5 hours of the 15.5 hours of substantive work included in this request. Based on the number of hours recorded during the period leading up to each of these decisions, the allocation would be approximately: ϕϕι 10% to work leading up to D.11-07-010; ϕϕι 50% to work leading up to D.11-10-016; ϕϕι 35% to the general strategy discussions among the settling parties that culminated in the 9/19/11 meeting; and ϕϕι 5% to work leading up to D.12-03-006. TURN re-emphasizes that all of this work was associated with the single activity or issue area of achieving successful implementation of the settlement. However, should the Commission wish to consider an allocation of the work to sub-categories of that single activity or issue area, TURN submits the allocation described above as a reasonable allocation. If the Commission believes that a different approach to issue-specific allocation is warranted here, TURN requests the opportunity to supplement this section of the request.	

B. Specific Claim:

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total $	Hours	Rate	Total $
Robert Finkelstein	2011	15.5	$470	D.12-03-024, p. 13	$7,285			
				Subtotal:	$7,285		***Subtotal:***	
OTHER FEES Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate	Basis for Rate*	Total $	Hours	Rate	Total $

				Subtotal:			***Subtotal:***	
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	**Year**	**Hours**	**Rate**	**Basis for Rate***	**Total $**	**Hours**	**Rate**	**Total $**
Robert Finkelstein	2012	4.5	$235	Half of approved hourly rate for 2011	$1,057			
[Preparer 2]								
				Subtotal:	$1,057		***Subtotal:***	
COSTS								
#	**Item**	**Detail**			**Amount**	**Amount**		
					Subtotal:	$	*Subtotal:*	
					TOTAL REQUEST $:	**$8,342**	**TOTAL AWARD $:**	

When entering items, type over bracketed text; add additional rows as necessary.
*If hourly rate based on CPUC decision, provide decision number; otherwise, attach rationale.
**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate.

C. Attachments Documenting Specific Claim and Comments on Part III (Claimant completes; attachments not attached to final Decision):

Attachment or Comment #	Description/Comment
1	**Certificate of Service** – filed as a separate document
2	**Attorney, Expert, and Advocate Hourly Records**

D. CPUC Disallowances, Adjustments, and Comments (CPUC completes):

#	Reason

PART IV: OPPOSITIONS AND COMMENTS

Within 30 days after service of this Claim, Commission Staff or any other party may file a response to the Claim (see § 1804(c))

(CPUC completes the remainder of this form)

A. Opposition: Did any party oppose the Claim?	

If so:

Party	Reason for Opposition	CPUC Disposition

B. Comment Period: Was the 30-day comment period waived (*see* Rule 14.6(2)(6))?	

If not:

Party	Comment	CPUC Disposition

FINDINGS OF FACT

1. Claimant [has/has not] made a substantial contribution to Decision (D.) _____.

2. The requested hourly rates for Claimant's representatives [,as adjusted herein,] are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.

3. The claimed costs and expenses [,as adjusted herein,] are reasonable and commensurate with the work performed.

4. The total of reasonable contribution is $_____.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, [satisfies/fails to satisfy] all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. Claimant is awarded $_____.

2. Within 30 days of the effective date of this decision, _____ shall pay Claimant the total award. [for multiple utilities: "Within 30 days of the effective date of this decision, ^, ^, and ^ shall pay Claimant their respective shares of the award, based on their California-jurisdictional [industry type, for example, electric] revenues for the ^ calendar year, to reflect the year in which the proceeding was primarily litigated."] Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning _____, 200__, the 75th day after the filing of Claimant's request, and continuing until full payment is made.

3. The comment period for today's decision [is/is not] waived.

4. This decision is effective today.

Dated _____, at San Francisco, California.

Attachment 1

Certificate of Service and Service List

(Filed as a separate document)

Attachment 2

Attorney, Expert, and Advocate Hourly Records

Date	Atty	Task	Description	Time Spent
Case #/name: A08-11-001				
4/30/2012	BF	Comp	Review file for comp request, begin drafting	1.50
5/3/2012	BF	Comp	Draft and edit comp request	3.00
Total: Comp				4.50
3/24/2011	BF	Post-Settle	Review draft pet mod and draft mtn to	0.50
4/26/2011	BF	Post-Settle	Review draft reply on pet mod; draft e-	0.25
4/27/2011	BF	Post-Settle	Review modified draft reply for TURN sign-	0.25
7/5/2011	BF	Post-Settle	Review util draft w/ CMUA proposed edits	0.25
7/7/2011	BF	Post-Settle	Review modified draft PD reply cmmts	0.25
7/20/2011	BF	Post-Settle	p/c w/ settling parties; p/c w/ settling	1.00
7/26/2011	BF	Post-Settle	Review draft pet mod; e-mail to parties w/	0.50
7/27/2011	BF	Post-Settle	Call w/ sttling partes re: PFM	0.50
7/27/2011	BF	Post-Settle	review CMUA proposed edits to draft pet	1.00
8/8/2011	BF	Post-Settle	Review Draft rep on Pet Mod, SCE edits to	0.50
8/25/2011	BF	Post-Settle	Review draft and CHP party edits to mtn to	0.25
9/9/2011	BF	Post-Settle	p/c w/ M. Gandesbery of PG&E re:	0.75
9/12/2011	BF	Post-Settle	E-mail re: agenda for upcoming meeting,	0.25
9/13/2011	BF	Post-Settle	p/c w/ F. Lindh re: mtg; e-mail w/ MG of	0.50
9/16/2011	BF	Post-Settle	P/c w/ utils for mtg prep	0.75
9/19/2011	BF	Post-Settle	All-party mtg re: strategies, next steps for	4.00
9/21/2011	BF	Post-Settle	Review draft cmmts on PD/AD, propose	0.75
9/29/2011	BF	Post-Settle	Prep for group ex parte meetings	0.50
9/29/2011	BF	Post-Settle	Participate in group ex parte meetings (2)	1.75
11/1/2011	BF	Post-Settle	e-mails w/ MAlcantar re: appealability of	0.50
11/10/2011	BF	Post-Settle	E-mails re: withdrawal of pending pet	0.25
12/2/2011	BF	Post-Settle	Review mtn to withdraw	0.25
Total: Post-Settle				15.50
Total: BF				20.00
Total: A08-11-001				20.00
Grand Total				20.00