Decision 06-05-031 May 25, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Promote Policy and Program Coordination and Integration in Electric Utility Resource Planning.	Rulemaking 04-04-003 (Filed April 1, 2004)

OPINION GRANTING INTERVENOR COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTIONS TO DECISION (D.) 04-07-028, D.04-10-035, D.04-12-048, AND D.04-12-051; RESOLUTIONS E-3902 AND E-3896; AND FOR PARTICIPATION IN THE ELECTRIC UTILITY PROCUREMENT REVIEW GROUPS

Summary

This decision awards The Utility Reform Network (TURN) $378,737.00 in compensation for its contributions to the following Commission orders and resolutions related to our electric utility resource planning program in this and related proceedings:[1] D.04-07-028, D.04-10-035, D.04-12-048, D.04-12-051, Resolution E-3902, Resolution E-3896, and for its participation in the related electric utility procurement review groups (PRGs).

Background

We opened the subject rulemaking (OIR) to adopt long-term resource plans and review long-term procurement plans (LTPP) of the state's three large

[1] The subject rulemaking is the successor to Rulemaking (R.) 01-10-024, Order Instituting Rulemaking to Establish Policies and Cost Recovery Mechanisms for Generation Procurement and Renewable Resource Development.

investor owned electric utilities' (IOUs).[2] Our goal in this proceeding is to "ensure that adequate, reliable, and reasonably-priced electric power … including prudent reserves, are achieved and provided through policies, strategies and actions that are cost-effective and sound for California's consumers and taxpayers."[3] [4]

The OIR specified that inter-agency working groups would review the electric IOU's LTPPs, and coordinate their work with this Commission, the California Energy Commission (CEC) and the California Consumer Power and Conservation Financing Authority (CFA). In D.04-01-050, we also stated that the commission would utilize workshops to address technical issues related to resource adequacy that are critical to our review of the electric IOUs' LTPPs.[5]

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[2] San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), and Pacific Gas and Electric Company (PG&E).

[3] Energy Action Plan, page 2 (2004 Cal Lexis 110).

[4] The OIR directed that in addition to review of the LTPPs, we would also consider:

- Resource adequacy issues not otherwise addressed in workshops;
- Treatment of confidential information;
- The development of procurement incentives for each utility;
- The development of a long-term policy for expiring Qualifying Facility (QF) contracts; and
- Review of the management audits of SDG&E's and PG&E's electric procurement transactions with affiliates.

[5] AB 57, (Stats. 2002, Ch. 850, Sec. 3, effective September 24, 2004), codified as Pub. Util. Code § 454.5 directed the electric IOUs to file proposed procurement plans that address specified issues with the Commission and the Commission to accept, reject, or modify the electric IOUs plans based on specified criteria. Other sources of guidance and direction to the electric IOUs regarding the LTPPs include the Energy Action Plan (EAP), issued jointly on May 8, 2003 by the Commission, the CEC and the CFA,

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We have issued several decisions in this proceeding, including D.04-07-028, D.04-10-035, and D.04-12-048; and have approved Resolutions E-3902 and E-3896, which relate to procurement issues. This proceeding remains open to address other procurement issues.

TURN seeks an award of intervenor compensation for its contributions to these decisions, the two Resolutions, and for its participation in the related PRG groups. TURN's request includes $6,290 in compensation for related contributions to D.04-12-051, issued in Application (A.) 04-10-004, a separate docket, that address SCE's proposed contract with Reliant Energy Etiwanda, Inc. (Reliant).

Requirements for Awards of Compensation

The intervenor compensation program, enacted in Pub. Util. Code §§ 1801-1812,[6] requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation if the intervenor makes a substantial contribution to the Commission's proceeding. The statute provides that the utility may adjust its rates to collect the amount awarded from its ratepayers.

All of the following procedures and criteria must be satisfied for an intervenor to obtain a compensation award:

1. The intervenor must satisfy certain procedural requirements including the filing of a sufficient notice of intent (NOI) to claim compensation within 30 days of the prehearing conference

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D.03-12-062, D.04-01-050, and the Assigned Commissioner Ruling/Scoping Memo (ACR) issued by Commissioner Peevey on June 16, 2004, as amended on June 29, 2004, in this docket.

[6] All future code references are to the Public Utilities Code.

(PHC), or in special circumstances, at other appropriate times that we specify. (§ 1804(a).)

2. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)

3. The intervenor must demonstrate "significant financial hardship." (§§ 1802(g), 1804(b)(1).)

4. The intervenor should file and serve a request for a compensation award within 60 days of our final order or decision in a hearing or proceeding. (§ 1804(c).)

5. The intervenor's presentation must have made a "substantial contribution" to the proceeding, through the adoption, in whole or in part, of the intervenor's contention or recommendations by a Commission order or decision. (§§ 1802 (h), 1803(a).)

6. The claimed fees and costs are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services. (§ 1806.)

For discussion here, the procedural issues in Items 1-3 above are combined, followed by separate discussion on Items 4, 5 and 6.

Procedural Requirements

The initial PHC was held on April 30, 2004. TURN timely filed its NOI on June 1, 2004. In its NOI, TURN addressed its anticipated scope of participation, estimated cost of participation, customer status and significant financial hardship. On July 27, 2004, Administrative Law Judge (ALJ) Wetzell ruled that

TURN is a customer pursuant to § 1802(b)(1)(C), and meets the financial hardship condition pursuant to § 1802(g).[7]

Timeliness of Compensation Request

TURN timely filed its request for compensation based on its contributions to D.04-12-048 and D.04-12-051 on February 18, 2005, within 60 days of the issuance of these decisions. The request is also timely as to Resolution E-3902, issued on December 30, 2004, and Resolution E-3896, issued on January 31, 2005.

However, a question exists regarding whether TURN's request for compensation is timely as to its work in proceedings that led up to the adoption of D.04-07-028, issued July 14, 2004, and D.04-10-035, issued November 4, 2004.

Section 1804(c) states**:**

> Following issuance of a final order or decision by the commission in the hearing or proceeding, a customer who has been found, pursuant to subdivision (b), to be eligible for an award of compensation may file within 60 days a request for an award.

Although Section 1804(c) does not specifically address situations in which multiple decisions are issued throughout a Commission proceeding, Rule 76.72[8] defines "final order or decision" as:

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[7] As previously noted, D.04-12-051, which addressed SCE's proposed contract with Reliant, was issued in a separate docket, A.04-10-004. TURN is seeking compensation here for the less than 25 hours of attorney and consultant time spent on the proceedings which led up to D.04-12-051, as that work arose directly out of its participation in SCE's PRG and directives in D.04-07-028 in this proceeding. TURN requests that the Commission find it eligible to receive compensation on the same basis as in R.04-04-003. Under these circumstances, we find that TURN qualifies for intervenor compensation on the same grounds as stated in ALJ Wetzell's ruling in R.04-04-003.

[8] All Rule citations are to the Commission Rules of Practice and Procedure, unless otherwise stated.

> ... "Final order or decision" means an order or decision that resolves an issue on which the customer believes it made a substantial contribution **or** the order or decision closing the proceeding … (Emphasis added).

Under Rule 76.72 and Section 1804(c), an intervenor may file a request for compensation either within 60 days after the issuance of a final order or decision in which an issue raised through the intervenor's participation is addressed, or within 60 days of the final decision or order closing the proceeding.[9] Although an intervenor is not required to file its compensation request while the proceeding is still pending, the intervenor may do so if it wishes to obtain compensation before the proceeding is closed.[10]

Here, TURN did not file its request for compensation within 60 days after the issuance of D.04-07-028 or D.04-10-035, and this docket remains open for ongoing proceedings. Although a more technical construction of Rule 76.72 would require TURN to wait until after the final Commission decision or order closing the proceeding to file its request for compensation based on its contributions to these decisions, the compensation request is not late, because TURN could have waited until 60 days after our final decision closing this docket to seek compensation. Moreover, as stated in Sections 1801.3(b) and (d), it is the intent of the Legislature that the Commission administer the intervenor compensation statutes in a way that encourages effective and efficient participation by intervenors and that compensates intervenors for making a

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[9] See D.00-07-013.

[10] Id.

substantial contribution.[11] Since a primary purpose of intervenor compensation is to facilitate the participation of parties that would otherwise be unable to afford to participate in Commission proceedings, it is consistent with the legislative intent behind the intervenor compensation statutes to not require a nonprofit entity, such as TURN, to wait until after a lengthy proceeding, such as this case, has been closed to claim compensation. We therefore will not deny TURN's request for compensation based on contributions to D.04-07-028 and D.04-10-035 as untimely here.

In view of the above, we find that TURN has met all the procedural requirements in its subject request necessary to claim compensation.

Substantial Contribution.

In evaluating whether a customer made a substantial contribution to a proceeding we look at several things. First, did the ALJ or Commissioner adopt one or more of the factual or legal contentions, or specific policy or procedural recommendations put forward by the intervenor? (See § 1802(h).) Second, if the customer's contentions or recommendations paralleled those of another party, did the customer's participation materially supplement, complement, or contribute to the presentation of the other party or to the development of a fuller record that assisted the Commission in making its decision? (See §§ 1802(h), 1802.5.) As described in § 1802(h), the assessment of whether the customer made a substantial contribution requires the exercise of judgment.

In assessing whether the customer meets this standard, the Commission typically reviews the record, composed in part of pleadings of the customer and,

[11] D.00-07-013.

in litigated matters, the hearing transcripts, and compares it to the findings, conclusions, and ordering paragraphs in the decision to which the customer asserts it contributed. It is then a matter of judgment as to whether the customer's presentation substantially assisted the Commission.[12]

Should the Commission not adopt any of the customer's recommendations, compensation may be awarded, if, in the judgment of the Commission, the customer's participation substantially contributed to the decision or order. With this guidance in mind, we turn to the claimed contributions TURN made here.

D.04-07-028

This decision responded to concerns by the California Independent System Operator (CAISO) regarding its increasing need to manage congestion and address reliability issues in Southern California, particularly in the area "South of Path 15." By letter dated June 10, 2004, the CAISO informed both SCE and the Commission's Energy Division Director that in recent months it increasingly had to manage congestion and otherwise address location-specific operating requirements in SCE's area in real time, rather than a day-ahead timeframe. This problem occurred particularly in the areas generally defined as South of Path 26, South of Lugo, and North of Miguel. Transmission congestion was occurring in this area due, in part, to the scheduling of resources not deliverable to load. These scheduling practices caused operational difficulties for the CAISO and created immediate and important reliability concerns for the summer of 2004.

[12] D.98-04-059, 79 CPUC 2d, 628 at 653.

After receiving comments, we issued D.04-07-028, which clarified and modified certain of our prior orders to find that ensuring reliability is not only the responsibility of CAISO, but also that of the IOUs, both locally and throughout their service areas. In meeting their procurement responsibilities, the IOUs must consider not only cost, but also transmission congestion and reliability. We directed the IOUs to comply with certain principles when making resource scheduling and procurement decisions to ensure that appropriate resources would be available to meet customer needs and to permit the CAISO to maintain reliable grid operations. These principles apply not only to the defined areas in Southern California, but to other areas in which the same problems occurred. We specified that D.04-07-028 was to remain in effect through the end of 2005, or until the issuance of any superseding order(s).

TURN participated actively in proceedings leading up to our adoption of D.04-07-028. For example, on June 10, 2004, an Assigned Commissioner's Ruling (ACR) requested expedited comments from the parties on a proposal that the IOUs consider known and reasonably anticipated congestion on the transmission system when procuring and scheduling resources. TURN filed opening and reply comments on the ACR on June 17 and 21, 2004, and comments on the resulting Draft Decision on July 1, 2004. TURN's comments raised a number of concerns regarding the approach suggested in the ACR.

D.04-07-028 acknowledged a number of the issues raised in TURN's comments, as follows:

- The decision clarified that the Commission was not suggesting "an abrupt about-face from policies…established only recently in D.04-01-050", but rather was seeking "incremental improvements" in IOU scheduling practices.

- The decision noted TURN's concerns about the lack of information available to the IOUs regarding grid conditions, and encouraged the CAISO to make such information available to the IOUs as feasible.

- The decision noted TURN's comments regarding the potential disconnect between the party identifying the reliability needs (the CAISO) and the parties responsible for meeting the costs of those needs (the IOUs) and established a monitoring plan to assess the impact of the decision.

- The decision agreed with TURN that the Commission's order should not be considered a "blank check" for imposing additional costs on ratepayers.

Based on the above, we find that TURN made a substantial contribution to D.04-07-028.

D.04-10-035

This interim decision defined and clarified the policies for resource adequacy requirements (RAR) adopted in D.04-01-050. In addition to other issues, we revisited the schedule for implementation of the 15 - 17% planning reserve margin requirement adopted in D.04-01-050, in view of new concerns about the reliability of California's electricity grid in the near term. The decision also addressed the next procedural steps required to ensure that a functioning regulatory program for RAR was implemented during 2005.

D.04-10-035 reflects some of TURN's contributions to Commission workshops held on the development of RAR program,[13] and the RAR policies adopted by the Commission, as follows:

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[13] After establishing broad RAR policies in D.04-01-050, the Commission conducted a series of 11 public workshops from March through May 2004 to further develop the

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- The decision cites TURN as having made useful points that the Commission could build upon in addressing the impact of energy efficiency programs on Load Serving Entity load forecasts.
- The decision cites TURN's comments regarding the phase-out of reliance on liquidated damages controls.
- The decision adopts a proposal developed by TURN and others that allows demand response programs to operate only two hours per day as credit toward the RAR, subject to a percentage limit on the use of such resources.
- The decision notes TURN's support for the adopted 100% month-ahead forward commitment obligation.
- The decision cites TURN's support of the adopted proposal to require RAR resources to be made available to the CAISO in the day-ahead timeframe if not otherwise scheduled to provide energy or ancillary services.
- The decision also adopts positions advocated by TURN that unit- or class-specific forced outage rates should not be considered in determining the qualifying capacity of various resources.
- TURN's comments on the Draft Decision also resulted in a change to the decision's language regarding the allocation of limited export capacity out of generation pockets.

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issues involved in creating a workable RAR program. ALJ Cooke distributed the Workshop Report on June 15, 2004. On July 8, 2004, ALJ Wetzell solicited comments from the parties on additional RAR topics.

TURN actively participated in the workshop discussions and filed opening and reply comments on the Workshop Reports and in response to ALJ Wetzell's ruling. Except for the Commission's Division of Ratepayer Advocates (DRA), which participated sporadically, TURN was the only small consumer representative involved in these proceedings. TURN states that while it can be difficult to identify individual contributions in a workshop context, TURN contributed to the workshops by identifying issues, seeking consensus when possible, and clearly identifying competing positions for Commission resolution when consensus could not be reached.

Based on the above, we find that TURN made a substantial contribution to D.04-10-035.

D.04-12-048

This decision adopted, with certain modifications, the LTPPs filed by the electric IOUs, and gave direction regarding the procurement of resources identified in their LTPPs, as follows:

- In meeting their procurement obligations, the IOUs must recognize that the "loading order" stated in the EAP is the highest priority, meaning that energy efficiency and demand-side resources should be employed first. IOUs must justify their selection of fossil generation over renewable generation in Request for Offer/Proposals (RFO/RFP).

- The IOUs' procurement was extended on a rolling 10-year basis, and each IOU was authorized to enter into short-term, mid-term, and long-term contracts, with start dates through 2014.

- In order to increase competition, the affiliate ban on long-term power contracts was removed. However, we adopted certain guidelines and safeguards, including an independent third party evaluator requirement.

- The Commission would allow consideration of debt equivalence in the bid evaluation process and required the use of a greenhouse gas (GHG) adder as a bid evaluation component. The IOUs must use the GHG adder when evaluating offers and renewable generation bids.

- The IOUs are to procure the maximum amount of renewable energy in the general solicitations allowed by this decision and may credit this procurement towards their Renewables Portfolio Standards (RPS), as consistent with the legislative intent in creating the RPS program.

- The IOUs were directed to issue RPS solicitations in 2005.

TURN actively participated in the evidentiary hearings by presenting the direct and rebuttal testimony of consultant Kevin Woodruff, cross-examining numerous witnesses, filing opening and reply briefs, and filing opening and reply comments on the Proposed Decision (PD) of ALJ Brown. D.04-12-048 reflects a number of contributions made by TURN, as outlined below:

- The decision adopted TURN's proposal regarding advance notice of a Community Choice Aggregation customer's pending departure from bundled service as a means of mitigating stranded costs.

- The decision adopted TURN's proposal by agreeing that any stranded costs of new utility contracts and investments may be recovered from customers who depart from utility bundled service in the future.

- In response to comments on the PD from TURN and other parties, the decision clarified that the emphasis on including renewables in all-source solicitations was not intended to interfere with ongoing RPS implementation.

- The decision agreed with TURN and other parties that the IOUs should be authorized to enter into contracts of up to five years' duration under their approved procurement plans, with contracts longer than five years remaining subject to advance approval by the Commission.

- In its decision, the Commission made significant changes to the PD, by clarifying that cost-based utility-owned generation would remain an option under the hybrid market structure, as strongly advocated by TURN, and that the "cost cap" discussed in the PD would apply only to a project's initial capital cost, as consistent with TURN's recommendation.

Based on the above, we find that TURN made a substantial contribution to D.04-12-048.

Resolution E-3902

This resolution approved the Local Area Reliability Procurement Proposal, developed jointly by SCE and the CAISO and filed by SCE by in Advice Letter 1832-E, pursuant to D.04-07-028.

As part of its implementation of D.04-07-028, SCE entered into discussions with the CAISO regarding potential procurement of additional resources for local reliability purposes. These discussions resulted in an agreement that SCE would attempt to procure an additional 600 megawatts (MW) of unit commitment and dispatch rights to locational capacity, subject to certain conditions. This arrangement was discussed extensively in SCE's PRG, and resulted in the filing of Advice Letter (AL) 1832-E.

TURN filed a limited protest to AL1832-E proposing certain clarifications and conditions. SCE agreed with most of TURN's issues in its reply to the protest, and Resolution E-3902 adopted those points.

In its protest, TURN also argued that SCE's contracts should identify costs that do not exceed potential RMR contracts exercised by the CAISO. We agreed with TURN that advice letter filings for contracts exceeding the threshold should include a cost comparison with backstop RMR contracts.

Based on the above, we find that TURN made a substantial contribution to Resolution E-3902.

Resolution E-3896

This resolution approved AL 1621-E, filed by SDG&E for contract authorization, as directed in D.04-06-011. The contract allowed SDG&E to engage contractor Ramco for design, permit and construction of a 45 MW combustion turbine (CT) in Chula Vista, California. SDG&E would acquire and operate the CT to assist in meeting its load requirements. TURN states that

because it conferred with SDG&E on issues before SDG&E filed its AL TURN found it unnecessary to file a protest. (No protests were otherwise filed.)

In D.04-06-011,[14] we approved a term sheet between SDG&E and Ramco for the transaction. However, we did not approve SDG&E's related cost recovery, ratemaking, and revenue requirement proposals.

The contract approved in Resolution E-3896 was generally consistent, but varied somewhat from the term sheet approved in D.04-06-011.[15] We also approved SDG&E's proposals for the first year revenue requirement for the ownership and operation of the Ramco CT and for the annual update mechanism for its first year revenue requirement, pending SDG&E's next General Rate Case or Cost of Service proceeding.

However, based on an issue raised by TURN in comments on the draft resolution, we ordered that in order to be consistent with the Market Indexed Capital Adjustment Mechanism return on equity (ROE) reduction, SDG&E must use its current ROE of 10.37% for the Ramco CT revenue requirement calculation, rather than the 10.90% ROE proposed by SDG&E in AL 1621-E.

In view of the above, we find that TURN made a substantial contribution to Resolution E-3896 based on the outcome of its comments on the draft resolution.

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[14] Issued in R.01-10-024.

[15] For example, under the final contract, the final price for the Ramco CT increased by approximately 2.1%, the project site changed from Chula Vista to Miramar, and more refined estimates in the final design for the CT increased the expected output so that the previously approved 45 MW project became a 45.51 MW project.

Participation in PRGs

TURN is seeking compensation for its participation in the PRGs, established by D.02-08-071 in this proceeding, for all three electric IOUs.[16]

Here, TURN actively participated in PRGs throughout 2004 by attending a majority of the many PRG meetings, and submitting both written and oral comments on specific proposals. TURN's participation in the PRGs also included advising SCE, SDG&E and PG&E on resource solicitations conducted during 2004 and planned for 2005, and reviewing proposed electric and gas hedging strategies, transactions, and supply plans. TURN states that through its work in the PRGs, it also participated in A.04-10-004 and the advice letter proceedings that resulted in Resolutions E-3902 and E-3896, which, according to TURN, were integrally related to the procurement issues in R.04-04-003.[17]

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[16] In D.02-08-071, we directed each IOU to establish a Procurement Review Group (PRG), whose members, subject to an appropriate non-disclosure agreement, would consult with and review the details of: (1) each IOU's overall interim procurement strategy; (2) proposed procurement contracts with the IOUs before submission of the contracts to the Commission for expedited review; and (3) proposed procurement processes, including but not limited to, RFOs that would result in the IOU's entry into contracts in compliance with the terms of the RFO. We ordered that membership in the PRGs would be open to an appropriate number of interested parties which were not "market participants" as defined in the May 1, 2002 Commission Protective Order, and which agreed to sign a non-disclosure agreement and to review and make recommendations concerning the proposed contracts and procurement processes to the IOUs and the Commission on an expedited basis.

[17] In this request, TURN is not seeking compensation for its work in the Phase 2 RAR workshops that began in November 2004, for its initial work in 2004 on long-term QF policy issues and procurement incentives, or for its work related to the SDG&E Grid Reliability RFP, which was addressed in D.04-06-011. However, TURN is seeking compensation in this request for some of its work that was initially recorded in the predecessor procurement docket, R.01-10-024, to the extent that the issues involved were subsequently transferred to R.04-04-003 for resolution.

Although it is difficult to link TURN's participation in PRGs in 2004 with the specific outcome of a Commission order, we agree with TURN that the procurement issues in PRGs in 2004 were related to issues here. Further, in D.02-10-062, we stated that "participation in the procurement review process…by non-market participants who are eligible to request intervenor compensation should be fully compensated because their active participation makes a significant contribution to the proceeding."[18] Our past decisions also confirm that participation by eligible intervenors in PRGs constitutes a significant contribution to the proceeding for the purpose of awarding intervenor compensation.[19]

In view of the above, we find that TURN's participation in PRGs made a substantial contribution to this proceeding.

D.04-12-051

In D.04-12-051, we authorized SCE to enter into a two year capacity tolling agreement with Reliant. SCE filed A.04-10-004 partly as follow-up to D.04-07-028 in this proceeding seeking approval of the tolling agreement because it did not fall within SCE's approved procurement plan.

The agreement provided for dispatchable energy from Reliant's Generation Units 3 and 4 to assist SCE in meeting its electrical capacity and regulatory requirements, and to enhance SCE's ability to meet customer load. Under the agreement, SCE would provide Reliant with natural gas to produce electricity. SCE could then dispatch energy without a time restriction. Under the

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[18] D.02-10-062 at page 4.

[19] See D.03-05-065.

agreement, SCE would also serve as the fuel manager and scheduling coordinator, thereby allowing it to achieve greater ratepayer benefit by having the generating units follow the variability of real-time electricity requirements.

We found the agreement reasonable and an economic benefit to SCE ratepayers by providing reasonable hedging against current projections of future prices, and flexibility in dispatching and performance guarantees. The Agreement also helped to address concerns regarding transmission reliability in SCE's service area by ensuring that Reliant Generation Units 3 and 4 are available for local area reliability for the duration of the agreement.

TURN is claiming $6,290 for its work leading to D.04-12-051. TURN conducted limited discovery, conferred with SCE on open questions, and submitted a limited protest that supported the contract but sought clarification of various issues related to cost allocation. TURN states its participation provided the Commission with independent ratepayer validation of the basic economics of the contract and clarified cost allocation issues that are important to bundled service customers.

We find that D.04-12-051 is related sufficiently enough to D.04-07-028 in this proceeding to award compensation here; and we agree with TURN's characterization of its participation here, and find it made a substantial contribution to D.04-12-051.[20] [21]

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[20] D.01-11-014 similarly awarded compensation for work in a related proceeding.

[21] In D.04-12-051, we acknowledged a concern raised by TURN in its protest that since D.04-07-028 would expire at the end of 2005, unless otherwise ordered, the Commission would not have a stated Commission policy on cost responsibility for local area reliability after 2005. However, we found that since this issue would be addressed in the Resource Adequacy workshops to be held in Phase 2 of the Resource Adequacy

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Duplication

In its efforts described above, we believe that TURN made every effort to avoid duplication of effort with other parties involved in the subject proceedings. As TURN notes, other customer involvement in the local reliability and RAR phases of this proceeding was minimal, except for limited involvement by the Commission's Division of Ratepayer Advocates (DRA - formerly the Office of Ratepayer Advocates). Moreover, D.04-12-048 acknowledged that in the LTPP hearings, TURN, DRA and the Utility Consumers' Action Network each focused on different topics on the LTPPs. To the extent TURN took the same position on an issue as another party, we find that TURN's showing supplemented, complemented, or contributed to the showing of the other party, and that TURN's work did not duplicate the participation of other parties.

Reasonableness of Requested Compensation

We now determine whether TURN's compensation request is reasonable. The components of this request must constitute reasonable fees and costs of the intervenor's preparation for and participation in a proceeding that resulted in a substantial contribution. Thus, only those fees and costs associated with the intervenor's work that the Commission concludes made a substantial contribution are reasonable and eligible for compensation.

D.98-04-059 directed intervenors to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. The costs of an intervenor's participation should bear a reasonable relationship to the

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phase of R.04-04-003, TURN'S concern was premature and did not need to be addressed in the decision. However, although TURN did not prevail on this issue, we find that TURN's overall participation did make a substantial contribution to D.04-12-051.

benefits realized through its participation. This showing assists us in determining the overall reasonableness of the request.

TURN requests $378,737.00 for its participation as described above, and shown in the table below. This amount includes $6,290 for TURN's contributions to D.04-12-051 in A.04-10-004. All work was performed in 2004, except for a few hours reviewing documents and 20 hours preparing the compensation request spent by attorney Florio.

Attorney Fees	Hours	Rate	Total
Robert Finkelstein	1.50	$395.00	$592.50
Michel P. Florio	413.75	$470.00	$194,462.50
Florio - comp. request	20.00	$235.00[22]	$4,700.00
Mathew Freedman	65.00	$270.00	$17,550.00
Hayley Goodson	14.50	$ 190.00	$2,755.00
Marcel Hawiger	4.00	$ 270.00	$1,080.00
Subtotal			**$221,140.00**
Consultant Fees			
William Marcus	2.00	$195.00	$390.00
Cynthia Mitchell	6.75	$115.00	$776.25
Kevin Woodruff	764.50	$ 200.00	$152,900.00
Subtotal			**$154,066.25**
Expenses			
Photocopying			$864.60
Postage			$8.16
Telephone/Internet Access			$97.99
Travel/parking			$1,320.25
Lodging/Meals			$1,239.75
Subtotal			**$3,530.75**
Request Total			**$378,737.00**

In general, the components of this request must constitute reasonable fees and costs of the customer's preparation for and participation in a proceeding that resulted in a substantial contribution. The issues we consider to determine reasonableness are discussed below.

Hours and Costs Related to and Necessary for Substantial Contribution

TURN documented its claimed hours by presenting a daily breakdown of the hours of its attorneys, policy analysts and experts, along with a brief description of each activity. The hourly breakdown reasonably supports the claim for total hours. Given the scope of TURN's participation and the work

[22] TURN properly requested an award for these hours at half of Florio's hourly rate.

products prepared, the number of claimed hours is reasonable. Since we find that TURN's efforts made a substantial contribution to the decision, we need not exclude from TURN's award any compensation for specific issues.

Productivity

Although we adopted many of TURN's recommendations, it is difficult to attribute specific quantifiable benefits to TURN's participation. However, TURN states that its work in this proceeding clearly saved ratepayers many times the cost of its participation. Aside from the reliability benefits of TURN's work on RAR issues, which could easily be quite substantial, TURN's success on the stranded cost alone will most likely result in considerable savings for bundled customers. Considering these issues, we find TURN's efforts have been productive.

Market Rate Standard

In determining compensation, we also take into consideration the market rates for similar services from comparably qualified persons. We previously approved all of TURN's requested hourly rates, as detailed below, and adopt them here.

Attorneys

TURN requested an hourly rate of $395 for Finkelstein, $470 for Florio, $270 for Freedman, $190 for Goodson, and $270 for Hawiger. We previously approved all of these rates in D.05-06-049.

Consultants

TURN requested an hourly rate of $195 for Marcus. We previously approved this rate in D.05-03-016.

TURN requested an hourly rate of $115 for Mitchell. We previously approved this rate for Mitchell's work in 2001 in D.01-12-008, and adopt it here for 2004.

TURN requested an hourly rate of $200 for Woodruff. We previously approved this rate for Woodruff's work in 2003 in D.04-08-042, and adopt it here for 2004.

Direct Expenses

The itemized direct expenses of $3,530.75 submitted by TURN include costs for travel, meals and lodging, photocopying, postage, telephone/fax, and internet access. The cost breakdown included with the request shows the miscellaneous expenses to be commensurate with the work performed. We find these costs reasonable.

Award

As set forth in the table below, we award TURN $378,737.00.

Representative	Type	Hours	Hourly Rate	Year	Totals
Florio	Attorney	413.75	$470	2004	$194,462.50
Florio	Attorney	20.00	$235*	2005	$4,700.00
Freedman	Attorney	65.00	$270	2004	$ 17,550.00
Goodson	Attorney	14.50	$190	2004	$ 2,755.00
Hawiger	Attorney	4.00	$270	2004	$ 1,080.00
Finkelstein	Attorney	1.95	$395	2004	$ 592.50
Woodruff	Consultant	764.50	$200	2004	$152,900.00
Mitchell	Consultant	6.75	$115	2004	$ 776.25
Marcus	Consultant	2.00	$195	2004	$ 390.00
Expenses					**$3,530.75**
Total					**$378,737.00**

* Request preparation time billed at half normal rate

Consistent with previous Commission decisions, we order that interest be paid on the award amount[23] commencing on May 3, 2005, the 75th day after TURN filed its compensation request, and continuing until full payment of the award is made.

We direct PG&E, SDG&E and SCE to allocate payment responsibility among themselves based upon their California-jurisdictional gas and electric revenues for the 2004 calendar year.

We remind all intervenors that Commission staff may audit their records related to this award, and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. TURN's records should identify specific issues for which it requested compensation, the actual time spent by each employee, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation was claimed.

Waiver of Comment Period

This is an intervenor compensation matter. Accordingly, as provided by Rule 77.7(f)(6) of the Commission's Rules of Practice and Procedure, we waive the otherwise applicable 30-day comment period for this decision.

Assignment of Proceeding

Michael R. Peevey is the Assigned Commissioner, and Carol A. Brown, Mark S. Wetzell, Julie M. Halligan, and Meg Gottstein are the assigned ALJs in this proceeding.

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[23] At the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15.

Findings of Fact

1. TURN has met all of the procedural requirements necessary to claim compensation in its subject request.

2. TURN made a substantial contribution to: D.04-07-028, D.04-10-035, D.04-12-048, and D.04-12-051; Resolutions E-3902 and E-3896; and in its participation in the electric utility PRGs.

3. TURN's requested hourly rates for attorneys and experts, and related expenses, are reasonable when compared to the market rates for persons with similar training and experience.

4. The total of the reasonable compensation, including costs, is $378,737.00.

5. The appendix to this decision summarizes today's award.

Conclusions of Law

1. TURN has fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to reasonable compensation, as set forth in the foregoing opinion, for its claimed fees and expenses incurred in making substantial contributions to: D.04-07-028, D.04-10-035, D.04-12-048, D.04-12-051; Resolutions E-3902 and E-3896; and in its participation in electric utility PRGs.

2. TURN should be awarded $378,737.00 for its contributions to: D.04-07-028, D.04-10-035, D.04-12-048, and D.04-12-051; Resolutions E-3902 and E-3896, and for its participation in the PRGs of the electric IOUs during 2004.

3. Pursuant to Rule 77.7(f)(6), the comment period for this compensation decision may be waived.

4. Today's order should be made effective immediately.

O R D E R

IT IS ORDERED that:

1. The Utility Reform Network (TURN) is awarded $378,737.00 as compensation for its substantial contributions to: Decision (D.) 04-07-028, D.04-10-035, D.04-12-048, and D.04-12-051; Resolution E-3902 and Resolution E-3896; and for its participation in the electric utility Procurement Review Groups during 2004.

2. Within 30 days of the effective date of this decision, Southern California Edison Company (SCE), Pacific Gas and Electric Company (PG&E), and San Diego Gas & Electric Company (SDG&E) shall pay this award to TURN.

3. PG&E, SCE and SDG&E shall also pay interest on the award commencing on May 3, 2005, the 75th day after TURN filed its compensation request, at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, and continuing until full payment is made.

4. Payment of this award shall be allocated among SCE, PG&E, and SDG&E on the basis of their respective jurisdictional electric revenues for 2004.

5. The comment period for today's decision is waived.

This order is effective today.

Dated May 25, 2006, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
Commissioners

Compensation Decision Summary Information

Compensation Decision:	D0605031	**Modifies Decision?**
Contribution Decision(s):	D0407028, 0410035, 0412048, 0412051, Resolution E-3902 and Resolution E-3896, Investor-owned Utilities Procurement Review Groups (2004)	
Proceeding(s):	R0404003, A0410004 (limited hours)	
Author:	ALJ Brown	
Payer(s):	Southern California Edison Company, Pacific Gas and Electric Company, San Diego Gas & Electric Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	February 18, 2005	$378,737.00	$378,737.00	No	

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Michael	Florio	Attorney	The Utility Reform Network	$470	2004-05	$470
Mathhew	Freedman	Attorney	The Utility Reform Network	$270	2004	$270
Hayley	Goodson	Attorney	The Utility Reform Network	$190	2004	$190
Marcel	Hawiger	Attorney	The Utility Reform Network	$270	2004	$270
Robert	Finkelstein	Attorney	The Utility Reform Network	$395	2004	$395
Kevin	Woodruff	Policy Expert	The Utility Reform Network	$200	2004	$200
Cynthia	Mitchell	Policy Expert	The Utility Reform Network	$115	2004	$115
William	Marcus	Policy Expert	The Utility Reform Network	$195	2004	$195