MLC/nd3 Date of Issuance: 6/15/2020

Decision 20-06-014 June 11, 2020

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2017. (U39M.)

Application 15-09-001

DECISION GRANTING INTERVENOR COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 19-08-023

Intervenor: The Utility Reform Network ("TURN")	For contribution to Decision (D.) 19-08-023
Claimed: \$15,502.50	Awarded: \$15,502.50
Assigned Commissioner: Marybel Batjer ¹	Assigned ALJ: Michelle Cooke

PART I: PROCEDURAL ISSUES

A Dieliu eDii	I D 10 00 000 d G ' ' ' ' 1 d d ' 1	
A. Brief description of Decision:	In D.19-08-023, the Commission revised the authorized	
	revenue requirements for request of Pacific Gas and Electric	
	Company (PG&E) in its 2018 and 2019 attrition years to	
	reflect changes associated with the federal Tax Cuts and Jobs	
	Act of 2017. In its petition for modification of its test year	
	2017 GRC decision D.17-05-013, PG&E proposed revenue	
	requirement reductions of \$267 million for 2018, and	
	\$296 million for 2019. The Commission directed PG&E to	
	modify its underlying calculations in several ways that	
	served to increase the amount of the near-term revenue	
	requirement reductions.	

¹ Reassigned from Commissioner Michael Picker on October 24, 2019.

340536973 - 1 -

B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ $1801-1812^2$:

	CPUC Verification				
Timely filing of notice of intent to claim) (§ 1804(a)):				
1. Date of Prehearing Conference:	10/29/15	Verified			
2. Other specified date for NOI:					
3. Date NOI filed:	11/30/15	Verified			
4. Was the NOI timely filed?		Yes			
Showing of eligible customer status (§ 1802(b (§§ 1802(d),	, .	rnment entity status			
5. Based on ALJ ruling issued in proceeding number:	A.15-03-005	Verified			
6. Date of ALJ ruling:	8/6/15	Verified			
7. Based on another CPUC determination (specify):					
8. Has the Intervenor demonstrated customer statu government entity status?	Yes				
Showing of "significant financial had	1803.1(b)):				
9. Based on ALJ ruling issued in proceeding number:	A.15-03-005	Verified			
10. Date of ALJ ruling:	8/6/15	Verified			
11. Based on another CPUC determination (specify):	N/A				
12. Has the Intervenor demonstrated significant final	ancial hardship?	Yes			
Timely request for compensation (§ 1804(c)):					
13. Identify Final Decision:	Verified				
14. Date of issuance of Final Order or Decision:	August 21, 2019	Verified			
15. File date of compensation request:	October 21, 2019	Verified			
16. Was the request for compensation timely? Yes					

² All statutory references are to California Public Utilities Code unless indicated otherwise.

C. Additional Comments on Part I:

#	Intervenor's Comment(s)	CPUC Discussion
	TURN is relying on the Commission's prior finding of eligibility in this proceeding, as confirmed in D.19-02-019, the decision that awarded TURN compensation for its substantial contribution to D.17-05-013. This is consistent with Rule 17.2 of the Commission's Rules of Practice and Procedure.	Noted

PART II: SUBSTANTIAL CONTRIBUTION

A. Did the Intervenor substantially contribute to the final decision (see § 1802(j), § 1803(a), 1803.1(a) and D.98-04-059):

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
1. Shorter Amortization Period for Excess Accumulated Deferred Income Taxes (ADIT) for "Unprotected" Assets		Verified
PG&E's proposed to return the full amount of net excess deferred taxes based on the Average Rate Assumption Model (ARAM), so that the amount would be returned over the regulated book life of the underlying plant. TURN acknowledged that such treatment is mandated for "protected assets," but the Commission has discretion in the method of returning deferred tax related to "unprotected" asset and liabilities. Because PG&E's petition and supporting material failed to distinguish between protected and unprotected assets, TURN called for the Commission to direct the utility to provide further information that would permit the distinction of excess ADIT associated with protected assets and the amount associated with unprotected assets.	TURN Response to PG&E Petition for Modification (4/30/18), pp. 3-6.	Verified
The Commission described TURN's analysis as "excellent" and agreed with TURN's position that ADIT associated with unprotected assets should be returned to ratepayers over a shorter period than the book life of the	D.19-08-023, pp. 22- 24, Conclusion of Law 3 and Ordering Paragraph 3.i.	Vermed

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
associated assets. But rather than require an additional showing from PG&E, the Commission directed the utility to make the necessary calculations and present the results in an implementing advice letter. PG&E filed Advice Letter 4142-G/5636-E on September 13, 2019.		
2. Treatment of Cost of Removal for Computing ARAM PG&E proposed to apply ARAM to only the original cost of its capital investments, omitting the future cost of removal associated with that same plant. TURN argued that at the time PG&E submitted its Petition for Modification, the same issue was pending in the test year 2018 GRC for Southern California Edison Company (SCE), and called for the Commission to direct PG&E to submit a request for letter ruling to the Internal Revenue Service to determine whether the utility's position on cost of removal was, in fact, compelled under existing tax law. TURN also called upon the Commission to adopt ratemaking under which it would adopt PG&E's proposed revenue requirement on an interim basis, with an opportunity for further reductions once the outcome of the letter ruling process became known.	TURN Response to PG&E Petition for Modification (4/30/18), pp. 3-4.	Verified
The Commission relied upon its resolution of the similar issues in the SCE GRC for the outcome adopted here. After quoting from TURN's response pleading in its description of the underlying issue, the Commission noted that when addressing the identical issue in the SCE GRC it had taken TURN's recommendation "a step further" by directing the utility to reduce its revenue requirement immediately, rather than await a response from the IRS to a private letter ruling request. It directed PG&E to calculate its revenue requirement reduction by including cost of removal as part of "book depreciation," and laid out a process the utility is to follow if it chooses to seek a private letter ruling on this topic.	D.19-08-023, pp. 20-22, Conclusions of Law 6 and 9, and Ordering Paragraphs 3.ii. and 4.	Verified

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

	Intervenor's Assertion	CPUC Discussion
a. Was the Public Advocates Office (formerly Office of Ratepayer Advocates) a party to the proceeding? ³	No	Verified
b. Were there other parties to the proceeding with positions similar to yours?	No	Verified
c. If so, provide name of other parties:	N/A	
d. Intervenor's claim of non-duplication:	Verified	
TURN was the only party to file a response to PG&E's petition modification, and to file comments on the Proposed Decision		

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

	CPUC Discussion
a. Intervenor's claim of cost reasonableness: TURN's request for intervenor compensation seeks an award of just under \$15,000 as the reasonable cost of our work related to the tax Petition for Modification. The Commission should have little trouble concluding that the amount requested is reasonable.	The Commission finds claim of costs to be reasonable.
The requested compensation amount is a very small fraction of the near-term revenue requirement reduction that can be attributed in part to TURN's advocacy efforts. PG&E's calculations for the impacts of the Tax Cuts and Jobs Act of 2017 on its authorized GRC revenue requirement indicated a reduction of \$81.6 million in 2018 and \$106.9 million in 2019 for the "Decrease in Revenue Requirement due to Amortization of Excess Deferred Taxes (ARAM)" (D.19-08-023, p. 6, Table 1, Line 4). The decision's outcomes on the issues disputed by TURN resulted in an increased reduction of \$120.4 million in 2018 and \$127.4 million in 2019, according to PG&E's implementing advice letter. (A.L. 4142-G/5636-E,	

³ The Office of Ratepayer Advocates was renamed Public Advocates Office of the Public Utilities Commission pursuant to Senate Bill No. 854, which the Governor approved on June 27, 2018.

	CRYC D.
Table 9 for 2018 and 2019.) The total GRC revenue requirement difference for 2018 and 2019 is thus approximately \$60 million.	CPUC Discussion
b. Reasonableness of hours claimed: TURN's attorneys and consultant recorded a reasonable number of hours for their work in this matter. The total hours of attorney and consultant time included in this request for compensation (approximately 30 hours, excluding compensation-related entries) is the equivalent of less than one week of full time work for an individual. This cumulative total should be found reasonable under the circumstances.	The Commission finds the claimed hours to be reasonable.
The largest number of hours are for the work of Robert Finkelstein, TURN's General Counsel, who served as the organization's lead attorney in this proceeding. William Marcus, TURN's long-term consultant on such matters, provided invaluable insight into the topics, and performed essential review of the draft pleadings prepared by Mr. Finkelstein. Hayley Goodson, TURN's lead attorney in the test year 2017 GRC for PG&E in which the petition for modification was filed, served a limited but critical coordination role when PG&E initially sought to share its plans for implementing the Tax Cuts and Jobs Act of 2017.	
TURN has also included in this compensation request 0.75 hours for work that was associated with responding to the nearly identical petition for modification that PG&E served in A.13-12-012, its test year 2015 GT&S proceeding. (The hours were recorded by Mr. Finkelstein on August 11 and 12, 2019.) TURN acknowledges that it is highly unusual to include in a compensation request for one proceeding hours that were recorded in another proceeding. But here the petition for modification served in this GRC docket was identical in all material ways to the petition served in the GT&S docket, so much so that TURN's attorney and consultant recorded no incremental time specific to the latter. The resulting Proposed Decision in each docket was also nearly identical, but were issued on different days, with the GT&S version trailing by several days. This created a need for a very limited amount of time devoted to identifying the differences between the Proposed Decisions and PG&E's opening comments on each in order to ensure TURN's reply comments on the GT&S versions of each were appropriate. TURN submits that it would be a poor use of resources for both TURN and the Commission to prepare and review a separate Request for Compensation for such a small number of GT&S-specific hours. Therefore, TURN has included them in this request. The Commission should find this approach reasonable under the circumstances here.	

Compensation Request Preparation Time: TURN is requesting compensation for 4.5 hours for preparation of this request for compensation. Mr. Finkelstein prepared this request for compensation because his role as lead attorney for TURN for the majority of this proceeding enabled him to prepare the request in a far more efficient manner than if it were prepared by a TURN attorney less familiar with the proceeding and TURN's work therein. TURN submits that the recorded hours are reasonable. Therefore, TURN seeks compensation for all of the hours recorded by our attorneys that are included in this request.	CPUC Discussion
c. Allocation of hours by issue: TURN's requests for compensation typically include an allocation of our advocates' time and entries based on the identified issues in the proceeding. TURN submits that such an allocation is not possible under the circumstances present here. The only substantive issue was the appropriate calculation and implementation of the Tax Cuts and Jobs Act of 2017. This application proceeding went forward in a manner better defined by the period of time in which work occurred rather than the underlying issues. From the start, the single issue was whether the Commission should authorize PG&E's requested exemptions and, if so, with what conditions. An issue-based allocation of that work would all be tied to that single issue. As a result, the work in this proceeding lends itself far less to the type of allocation TURN typically presents in a request for compensation.	The Commission fins the hours to be reasonable.
When faced with similar circumstances in a recent request for compensation, TURN presented an allocation of our advocates' time by period or activity rather than by issue. Here, the limited number of activities that occurred in only two distinct periods renders this approach of less probative value. There were only three limited periods of activity: discussions with PG&E and within TURN regarding the utility's plans to present its proposed changes through a petition for modification (early 2018 through PG&E's webinar in late March); review of PG&E's petition and developing and preparing the response thereto (April 2018); and review of the proposed decision and PG&E's comments thereon, and preparing reply comments (July and August of 2019). TURN submits that it is reasonable to use this approach under the circumstances here, for the reasons described above. If the Commission believes that a different approach to issue-specific allocation is warranted	

	CPUC Discussion
here, TURN requests the opportunity to supplement this section of the	
request.	

B. Specific Claim:*

		Cı	LAIMED				CPUC A	WARD
		ATT	ORNEY,	EXPERT, AN	D ADVOCA	TE FEES	3	
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Robert Finkelstein	2018	12.25	\$530	D.18-11-043	\$6,492.50	12.25	\$530	\$6,492.50
R. Finkelstein	2019	10.25	\$540	Res. ALJ-357 (2.35% 2019 COLA)	\$5,535.00	10.25	\$540	\$5,535.00
Hayley Goodson	2018	1.0	\$435	D.18-04-020	\$435.00	1.0	\$435	\$435.00
William Marcus, MCPM Economics	2018	3.75	\$290	See Comment #1	\$1,087.50	3.75	\$290	\$1,087.50
W. Marcus	2019	2.5	\$295	See Comment #1	\$737.50	2.50	\$295	\$737.50
				Subtotal:	\$14,287.50		Subto	tal: \$14,287.50
	INTI	ERVEN	OR COM	IPENSATION	CLAIM PRI	EPARAT	ION **	
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Robert Finkelstein, General Counsel	2019	4.5	\$270	½ of requested 2019 rate	\$1,215.00	4.5	\$270	\$1,215,00
				Subtotal:	\$1,215.00		Subte	otal: \$1,215.00
			TOTA	AL REQUEST:	\$15,502.50	TO	TAL AWA	RD: \$15,502.50

*We remind all intervenors that Commission staff may audit the records and books of the intervenors to the extent necessary to verify the basis for the award (§1804(d)). Intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

^{**}Travel and Reasonable Claim preparation time are typically compensated at ½ of preparer's normal hourly rate

CLAIMED				CPUC AWARD	
ATTORNEY INFORMATION					
Attorney	Attorney Date Admitted to CA BAR ⁴ Member Number		Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation		
Robert Finkelstein	June 1990	146391		No	
Hayley Goodson	December 2003	228535		No	

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
Attachment 1	Certificate of Service
Attachment 2	Timesheets for TURN's Attorneys
Comment 1	Hourly Rates for TURN Attorneys and Consultants
	Robert Finkelstein
	The Commission has previously authorized the hourly rate requested for Mr. Finkelstein for 2018, as indicated in the table above. The requested rate for 2019 represents the 2019 COLA from Res. ALJ-357 (adopted March 28, 2019) applied to the authorized 2018 rate, then rounded to the nearest \$5 increment.
	William Marcus of MCPM Economics
	The requested rates of \$290 and \$295 for Mr. Marcus's work in 2018 and 2019, respectively, represent his market rate charged for work performed during each of those years. The Commission should find the rate reasonable, even if viewed within the context of the annual rate escalations adopted for intervenor compensation purposes. The \$290 figure is consistent with using the authorized hourly rate of \$280 from 2016 for Mr. Marcus (from D.19-02-019, which reflected that Mr. Marcus did not increase his billed rate in 2017), then escalating by 2.14% for the 2017 COLA (Res. ALJ-345) and 2.3% for the 2018 COLA (Res. ALJ-352), then rounded to the nearest \$5 increment. Similarly, the \$295 figure for 2019 is consistent with the 2019 COLA adopted in Res. ALJ-357.

⁴ This information <u>may</u> be obtained through the State Bar of California's website at http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch.

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))

A. Opposition: Did any party oppose the Claim?	No
B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(c)(6))?	Yes

FINDINGS OF FACT

- 1. The Utility Reform Network has made a substantial contribution to D.19-08-023.
- 2. The requested hourly rates for The Utility Reform Network's representatives 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 are reasonable and commensurate with the work performed.
- 4. The total of reasonable compensation is \$15,502.50.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

- 1. The Utility Reform Network shall be awarded \$15,502.50.
- 2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company shall pay The Utility Reform Network the total award. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning January 4, 2020, the 75th day after the filing of The Utility Reform Network's request, and continuing until full payment is made.

A.15-09-001 ALJ/MLC/nd3

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

This decision is effective today.

Dated June 11, 2020, at San Francisco, California.

President
LIANE M. RANDOLPH
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
Commissioners

APPENDIX

Compensation Decision Summary Information

Compensation Decision:	D2006014	Modifies Decision?	No
Contribution Decision(s):	D1908023		
Proceeding(s):	A1509001		
Author(s):	ALJ Cooke		
Payer(s):	Pacific Gas and Electric Company		

Intervenor Information

Intervenor	Date Claim	Amount	Amount	Multiplier?	Reason
	Filed	Requested	Awarded		Change/Disallowance
The Utility Reform Network	10/21/19	\$15,502.50	\$15,502.50	N/A	N/A

Hourly Fee Information

First Name	Last Name	Attorney, Expert,	Hourly Fee	Year Hourly	Hourly Fee
		or Advocate	Requested	Fee Requested	Adopted
Robert	Finkelstein	Attorney	\$530	2018	\$530
Robert	Finkelstein	Attorney	\$540	2019	\$540
Hayley	Goodson	Attorney	\$435	2018	\$435
William	Marcus	Expert	\$290	2018	\$290
William	Marcus	Expert	\$295	2019	\$295

(END OF APPENDIX)