

Decision 23-05-026 May 18, 2023

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

Application of San Diego Gas & Electric Company (U902M) for Establishment of an Interim Rate Relief Mechanism for its Wildfire Mitigation Plan Costs.

Application 21-07-017

**DECISION GRANTING COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 22-05-001**

<b>Intervenor:</b> The Utility Reform Network ("TURN")	<b>For contribution to Decision (D.) 22-05-001</b>
<b>Claimed:</b> \$90,577.50	<b>Awarded:</b> \$90,577.50
<b>Assigned Commissioner:</b> Darcie Houck	<b>Assigned ALJ:</b> Nilgun Atamturk

**PART I: PROCEDURAL ISSUES**

<b>A. Brief description of Decision:</b>	In D.22-05-001, the Commission denied San Diego Gas & Electric Company's (SDG&E) request for authorization of interim rate recovery of costs recorded in the utility's Wildfire Mitigation Plan Memorandum Accounts, on the basis that SDG&E had not sufficiently demonstrated a need for interim rate relief.
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**B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812<sup>1</sup>:**

	<b>Intervenor</b>	<b>CPUC Verification</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	10/13/21	Verified
2. Other specified date for NOI:		
3. Date NOI filed:	11/10/21	Verified
4. Was the NOI timely filed?		Yes
<b>Showing of eligible customer status (§ 1802(b)) or eligible local government entity status (§§ 1802(d), 1802.4):</b>		
5. Based on ALJ ruling issued in proceeding number:	R.20-08-021	Verified
6. Date of ALJ ruling:	12/11/20	Verified
7. Based on another CPUC determination (specify):		
8. Has the Intervenor demonstrated customer status or eligible government entity status?		Yes
<b>Showing of “significant financial hardship” (§1802(h) or §1803.1(b)):</b>		
9. Based on ALJ ruling issued in proceeding number:	R.20-08-021	Verified
10. Date of ALJ ruling:	12/11/20	Verified
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.22-05-001	Verified
14. Date of issuance of Final Order or Decision:	5/9/22	Verified
15. File date of compensation request:	7/1/22	Verified
16. Was the request for compensation timely?		Yes

<sup>1</sup> All statutory references are to California Public Utilities Code unless indicated otherwise.

## 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
<p><b>1. Recent Decisions Addressing Ratemaking for Wildfire-Related Costs Provide The More Relevant Guidance Than the PSEP Decision:</b> SDG&amp;E's request for interim rate relief relied heavily on the treatment adopted in a 2015 decision addressing Pipeline Safety Enhancement Plan (PSEP) costs (D.16-08-003). TURN argued that more recent decisions on ratemaking for wildfire-related costs provided more relevant guidance. The Commission agreed, and included a summary of the prior wildfire-related decisions that generally tracked the analysis presented in TURN's brief.</p>	<p>TURN Opening Brief, pp. 1-8.</p> <p>D.22-05-001, pp. 11-12 and Conclusion of Law 1.</p>	<p>Verified</p>
<p><b>2. SDG&amp;E's "Impacts of Interim Rate Relief" Arguments:</b> SDG&amp;E argued that interim rate relief would provide a number of advantages, including reducing the risk of rate shock, and promoting intergenerational equity and rate stability. TURN contended that interim rate relief should remain an extraordinary ratemaking device, and the potential problems SDG&amp;E cited were not materially different than those that would be present any time a memorandum account reached a significant balance. TURN also described how other ratemaking practices adopted in recent proceedings could mitigate the problems SDG&amp;E had cited. The Commission-adopted analysis was consistent with TURN's, and found SDG&amp;E had failed to demonstrate substantial rate stability and rate shock benefits that could not be achieved in a GRC setting, or a substantial difference in terms of intergenerational equity or the timing of the utility's recovery of reasonable costs.</p>	<p>TURN Opening Brief, pp. 9-11 and 14-17; TURN Reply Brief, pp. 1-3 and 6-7.</p> <p>D.22-05-001, pp. 16-18, and Findings of Fact 10-12.</p>	<p>Verified</p>

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p><b>3. SDG&amp;E's "Impacts of Interim Rate Relief" Arguments:</b> SDG&amp;E also argued that without interim rate recovery the utility's financial condition could be jeopardized, citing a recent Moody's Credit Opinion to support its position. TURN challenged the utility's reliance on the specific Funds From Operations (FFO)/Debt ratio, arguing that the utility-calculated result would remain above the level that might otherwise trigger a credit rating change. TURN also pointed to the numerous favorable statements in the Credit Opinion regarding SDG&amp;E's condition and the quality of the Commission's regulatory process. Again, the Commission-adopted analysis was consistent with TURN's, noting that SDG&amp;E's FFO/Debt ratio would remain above the 20% figure SDG&amp;E cited as a potential trigger for a credit downgrade, and that the Credit Opinion painted a favorable picture of SDG&amp;E's financial condition and the Commission's ratemaking practices.</p>	<p>TURN Opening Brief, pp. 17-21; TURN Reply Comments, pp. 3-6.</p> <p>D.22-05-001, pp. 13-16, and Findings of Fact 8-9.</p>	Verified
<p><b>4. Post-Proposed Decision Actions:</b> SDG&amp;E's comments on the proposed decision sought substantial changes on key issues, and relied on a factual assertion regarding potential cost savings that had first appeared in the utility's reply brief. The utility also pursued an ex parte strategy led by the utility's President and Chief Financial Officer, and its Controller and Chief Accounting Officer, with meetings with each of the five Commissioners' offices. In reply comments and ex parte meetings, TURN, Utility Consumers Action Network (UCAN) and California Farm Bureau Federation (CFBF) opposed all of the changes sought by the utility, and countered the late-presented "savings" calculation with a demonstration that the net costs to ratepayers would likely be significantly higher if interim rate relief were granted. The decision notes that the Commission, after carefully reviewing the opening</p>	<p>TURN, UCAN and CFBF Reply Comments on Proposed Decision.</p> <p>D.22-05-001, p. 19.</p>	Verified

<b>Intervenor's Claimed Contribution(s)</b>	<b>Specific References to Intervenor's Claimed Contribution(s)</b>	<b>CPUC Discussion</b>
and reply comments, determined that no substantive changes should be made to the Proposed Decision, consistent with the position taken by TURN, UCAN and CFBF.		

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

	<b>Intervenor's Assertion</b>	<b>CPUC Discussion</b>
<b>a. Was the Public Advocates Office (formerly Office of Ratepayer Advocates) a party to the proceeding?</b>	Yes	Verified
<b>b. Were there other parties to the proceeding with positions similar to yours?</b>	Yes	Verified
<b>c. If so, provide name of other parties:</b> Utility Consumers Action Network (UCAN), and California Farm Bureau Federation (CFBF)		Noted
<b>d. Intervenor's claim of non-duplication:</b> Duplication of effort with the Public Advocates Office was not an issue in this proceeding, as the PAO took a position of not opposing the utility's request. TURN's positions in opposition to SDG&E's interim rate recovery request were shared by UCAN and CFBF. Therefore, TURN coordinated closely with the two groups during the course of the proceeding. For example, TURN and UCAN submitted a joint protest to the SDG&E application. And after the Proposed Decision issued, TURN, UCAN and CFBF jointly developed reply comments to the extensive opening comments of SDG&E, and participated in ex parte meetings with each Commissioner's office in order to counter the utility's use of such meetings. As a result, TURN, UCAN and CFBF were able to rely on each other's arguments and positions as presented in protests and briefs, and then spoke with a single voice throughout the post-Proposed Decision portion of the decision-making process. The Commission should find that TURN's participation was reasonably coordinated with the participation of other similarly-positioned intervenors under the circumstances so as to avoid undue duplication, and to ensure that, whenever duplication occurred, it served to supplement, complement, or contribute to the showing of the other intervenors. And consistent with such a finding, the Commission should determine that all of TURN's work is compensable consistent with the conditions set forth in Section 1802.5.		Noted  While TURN generally filed joint comments they were also able to provide a unique perspective to this proceeding.

### PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

	CPUC Discussion
<p><b>a. Intervenor’s claim of cost reasonableness:</b></p> <p>TURN’s request for intervenor compensation seeks an award of approximately \$91,000 as the reasonable cost of our participation in the proceeding. The Commission should conclude that the amount requested is indeed reasonable. In TURN’s view, the more important outcome here was a matter of achieving consistency with fundamental ratemaking principles and practices, rather than the near-term rate impacts. However, the near-term rate impact was also quite substantial, as SDG&amp;E’s application sought authority for interim rate recovery of \$514 million over the 2022-2024 period. TURN’s participation in the proceeding, in coordination with UCAN and CBBF, was principally responsible for denial of the utility’s request. Whether the Commission focuses on the impact on ratemaking principles and practices, or the near-term rate impacts, it should conclude that the requested amount of compensation is reasonable in light of the magnitude of the request and the scope of the potential ratepayer impacts of the proposal put forward by the utility.</p>	Noted
<p><b>b. Reasonableness of hours claimed:</b></p> <p>TURN’s attorney and analyst recorded a reasonable number of hours for their work in this matter. The total hours of professional time included in this request for compensation (112.5 hours, excluding compensation-related entries) is the equivalent of just under four weeks of full time work for a single attorney. TURN’s efforts covered the initial review and analysis of SDG&amp;E’s application, coordination with other interested parties, preparation of a detailed protest to the application, preparation for and participation in the prehearing conference, preparation of discovery, preparation of an opening and reply brief, review of the Proposed Decision, preparation of reply comments and participation in numerous ex parte meetings. This cumulative total should be found reasonable under the circumstances.</p> <p>The vast majority of the requested hours represent the work of Robert Finkelstein, TURN’s General Counsel, who served as the organization’s lead attorney in this proceeding. TURN’s analysis of the financial and credit rating claims of SDG&amp;E was assisted by Jennifer Dowdell, TURN’s Energy Policy Analyst. Thomas Long (Legal Director) assisted with strategic and presentation issues, as well as providing input regarding SDG&amp;E’s cost forecasts that were based on RAMP-related figures.</p> <p><u>Compensation Request Preparation Time:</u> TURN is requesting compensation for 7.5 hours devoted to compensation-related matters, of which 5.0 hours is 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.</p> <p>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.</p>	Noted

		CPUC Discussion
<p><b>c. Allocation of hours by issue:</b></p> <p>TURN has allocated all of our attorney and analyst time by issue area or activity, as evident on our attached timesheets. For the most part, the following codes relate to specific substantive issue and activity areas addressed by TURN in this proceeding, as well as general activities that are part of nearly all CPUC proceedings, such as tasks associated with general participation, pursuing discovery, and dealing with procedural matters such as responding to ALJ rulings.</p> <p>TURN’s allocation utilizes the typical categories such as “General Participation,” “Discovery,” “Coordination,” and other categories that cover activities essential for successful work in the proceeding.</p>		Noted
Code	Stands for:	
GP	General Participation -- work that is essential to TURN’s participation but would not vary with the number of issues that TURN addresses, for the most part. This code appears most regularly during early stages of a proceeding, such as the initial review of the application and testimony, the preparation of the protest and participation in the prehearing conference, and other tasks throughout the course of the proceeding that are of a more general nature.	
Proc	Procedural - Responding to ALJ rulings of a procedural nature, and dealing with admitting materials into record in absence of hearings	
Disc	Discovery – Preparing or otherwise addressing discovery-related matters	
Coord	Coordination with other parties – meetings, e-mails and phone calls w/ UCAN and CFBF	
RMI	Ratemaking Impacts – Addressing SDG&E arguments based on purported ratemaking impacts of rate recovery with and without interim recovery	
FI	Financial Impacts – Addressing SDG&E arguments regarding potential credit rating and other financial impacts the utility might face with and without interim recovery	
RMI/FI	General work covering both RMI and FI topics, without the ability to clearly distinguish between the two topics. If further allocation is required, TURN recommends allocating the time 50/50 between the two topics.	
Guid	Guidance – Research and drafting on topics regarding the appropriate CPUC decisions to serve as guidance in addressing present interim recovery request	
Calc	Calculation – Research and drafting on SDG&E’s calculation of 50% based on memo account balance, rather than 50% of costs incurred in a given year.	
PD	Proposed Decision -- work on reviewing, analyzing, and commenting on the Proposed Decision and revisions thereto, as well as <i>ex parte</i> communications.	
Comp	Time devoted to compensation-related pleadings	
<p>TURN submits that under the circumstances this information should suffice to address the allocation requirement under the Commission’s rules. Should the Commission wish to see additional or different information on this point, TURN requests that the Commission so inform TURN and provide a reasonable opportunity for TURN to supplement this showing accordingly.</p>		

**B. Specific Claim:\***

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Robert Finkelstein	2021	46.5	\$780	D.22-06-018	\$36,270.00	46.5	\$780 [1]	\$36,270.00
Robert Finkelstein	2022	60.5	\$805	See Comment 1	\$48,702.50	60.5	\$805 [2]	\$48,702.50
Jennifer Dowdell	2021	4.5	\$400	D.22-06-018	\$1,800.00	4.5	\$400 [3]	\$1,800.00
Thomas Long	2021	0.5	\$780	D.22-06-018	\$390.00	0.5	\$780 [4]	\$390.00
Thomas Long	2022	0.5	\$805	See Comment 1	\$402.50	0.5	\$805 [5]	\$402.50
Subtotal: \$87,565.00						Subtotal: \$87,565.00		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Robert Finkelstein	2021	0.5	\$390	½ of 2021 rate	\$195.00	0.5	\$390 [1]	\$195.00
Robert Finkelstein	2022	7	\$402.50	½ of 2021 rate	\$2,817.50	7	\$402.50 [2]	\$2,817.50
Subtotal: \$3,012.50						Subtotal: \$3,012.50		
TOTAL REQUEST: \$90,577.50						TOTAL AWARD: \$90,577.50		
<p>*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.</p> <p>**Travel and Reasonable Claim preparation time are typically compensated at ½ of preparer’s normal hourly rate</p>								



CLAIMED			CPUC AWARD
ATTORNEY INFORMATION			
Attorney	Date Admitted to CA BAR <sup>2</sup>	Member Number	Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation
Robert Finkelstein	June 1990	146391	No
Thomas Long	December 1986	124776	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 and Analyst
Attachment 3	TURN Hours Allocated by Issue
Comment 1	<p><b>Hourly Rates for TURN Attorneys and Analyst</b></p> <p><u>2021 Rates:</u> In D.22-06-018 (issued in A.20-04-023), the Commission adopted hourly rates for work performed in 2021 for each of the TURN staff members whose work is included in this request for compensation. TURN has used the adopted hourly rates for 2021 work in this proceeding.</p> <p><u>2022 Rate:</u> TURN requests that the Commission apply the annual escalation methodology adopted in Res. ALJ-393 to determine the 2022 hourly rate for Mr. Finkelstein. This annual escalation methodology is based on the annual percentage change in the Bureau of Labor Statistics Employment Cost Index, Table 5, for the Occupational Group “Management, Professional, and Related excluding Incentive Paid Occupations.” (Res. ALJ-393, p. 4; Intervenor Compensation Market Rate Study, Final Report, p. 8). The percent change for this occupational group for the 12-months ended December 2021 is 3.3%. <i>See <a href="https://www.bls.gov/news.release/eci.t05.htm">https://www.bls.gov/news.release/eci.t05.htm</a></i>. Therefore, TURN’s requested 2022 rate for Mr. Finkelstein reflects a 3.3% increase over the amount authorized for work in 2021, rounded to the nearest \$5 increment.</p>

<sup>2</sup> This information may be obtained through the State Bar of California’s website at: <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

**D. CPUC Comments, Disallowances, and Adjustments**

<b>Item</b>	<b>Reason</b>
1. Robert Finkelstein (Finkelstein) 2021 Hourly Rate	D.22-06-018 authorized a 2021 hourly rate of \$780 for Finkelstein.
2. Finkelstein 2022 Hourly Rate	We adopt the requested hourly rate TURN requested of \$805 for Finkelstein.  D.22-06-018 authorized a 2021 hourly rate of \$780 for Finkelstein, we applied the 2022 annual escalation rate of 3.31% in accordance with Resolution ALJ-393 and rounded to the nearest \$5.
3. Jennifer Dowdell (Dowdell) 2021 Hourly Rate	D.22-06-018 authorized a 2021 hourly rate of \$400 for Dowdell.
4. Thomas Long (Long) 2021 Hourly Rate	D.22-06-018 authorized a 2021 hourly rate of \$780 for Long.
5. Long 2022 Hourly Rate	We adopt the requested hourly rate TURN requested of \$805 for Long.  D.22-06-018 authorized a 2021 hourly rate of \$780 for Long, we applied the 2022 annual escalation rate of 3.31% in accordance with Resolution ALJ-393 and rounded to the nearest \$5.

**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))**

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

**FINDINGS OF FACT**

1. The Utility Reform Network has made a substantial contribution to D.22-05-001.
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 \$90,577.50.

**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 is awarded \$90,577.50.
2. Within 30 days of the effective date of this decision, San Diego Gas & 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 September 14, 2022, the 75<sup>th</sup> day after the filing of The Utility Reform Network's request, and continuing until full payment is made.

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

This decision is effective today.

Dated May 18, 2023, at San Francisco, California.

ALICE REYNOLDS  
President  
GENEVIEVE SHIROMA  
DARCIE L. HOUCK  
JOHN REYNOLDS  
KAREN DOUGLAS  
Commissioners

## APPENDIX

### Compensation Decision Summary Information

Compensation Decision:	D2305026	Modifies Decision?	No
Contribution Decision(s):	D2205001		
Proceeding(s):	A2107017		
Author:	ALJ Atamturk		
Payer(s):	San Diego Gas & Electric Company		

### Intervenor Information

Intervenor	Date Claim Filed	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	July 1, 2022	\$90,577.50	\$90,577.50	N/A	N/A

### Hourly Fee Information

First Name	Last Name	Attorney, Expert, or Advocate	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Robert	Finkelstein	Attorney	\$780	2021	\$780
Robert	Finkelstein	Attorney	\$805	2022	\$805
Jennifer	Dowdell	Expert	\$400	2021	\$400
Thomas	Long	Attorney	\$780	2021	\$780
Thomas	Long	Attorney	\$805	2022	\$805

**(END OF APPENDIX)**