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

Order Instituting Rulemaking on the Commission's Own Motion
to Address the Issue of Customers' Electric and Natural Gas
Service Disconnection.

Rulemaking 10-02-005
(Filed February 4, 2010)

**COMMENTS OF THE GREENLINING INSTITUTE ON THE
PROPOSED DECISION OF ALJ DeBERRY AWARDING INTERVENOR COMPENSATION
TO THE GREENLINING INSTITUTE FOR SUBSTANTIAL CONTRIBUTION TO D.10-07-048**

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I. INTRODUCTION

Pursuant to Rule 14.3 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, the Greenlining Institute ("Greenlining") hereby files the following comments on the Proposed Decision of ALJ DeBerry Awarding Intervenor Compensation to the Greenlining Institute for Substantial Contribution to D.10-07-048 ("Proposed Decision" or "PD").¹ These comments are offered not to challenge or contest, but to clarify. Greenlining does not request any specific action on the Commission's part in response to these comments, but merely wishes for the Commission to consider them in light of the instant claim and Proposed Decision.

II. DISCUSSION

A. It Is Both Reasonable and Beneficial to Provide Some Support for the Development of New Consumer Advocacy Attorneys

Greenlining is not unique among intervenors in offering opportunities to brand new attorneys, which allow them to learn consumer advocacy and utilities regulation on the job. In a job market particularly difficult for even the most skilled and promising young attorneys to break into, these opportunities are of great value not only to the attorneys themselves and the organizations they work for, but also to the consumers whose interests they represent. While Greenlining agrees that it is not the responsibility of ratepayers to foot the bill for these attorneys to learn the utilities regulation practice area, it submits that some support for the development of new consumer advocates is both reasonable and in the public interest.

¹ Issued December 13, 2010.

1. It is reasonable for a new attorney to take a bit more time than a seasoned attorney to complete routine tasks

Several of the PD's disallowances brought Greenlining's recorded time more in line with that of other intervenor parties.² The PD recognizes that two of Greenlining's attorneys, who handled the majority of the work in this proceeding, are new attorneys, but states that ratepayers should not bear the cost of training new staff.³ As a matter of policy, Greenlining agrees that ratepayers should not bear all of this cost, but submits that it is reasonable to make a modest allowance, perhaps 20%, for the development of attorneys in their first two years.

The landscape of utility regulation is complex, and as any CPUC regular will attest, it takes time to develop a full understanding of its various facets. As such, for tasks such as reading an Order Instituting Rulemaking or drafting a Notice of Intent to Claim Intervenor Compensation, it will take a new attorney a little longer to understand and complete the task than it would for an attorney who has several years of experience. New attorneys already receive compensation at a substantially lower rate than more seasoned attorneys, presumably because they are less experienced. Applying the same principle to the issue of compensable time, it is reasonable that a less experienced attorney would record incrementally more time on a particular task than would a more experienced one.⁴

Greenlining further submits that it is beneficial to ratepayers to support a *modest* allowance for new attorneys, on the order of 20%, to provide for the development of new consumer advocates.

Advocacy before the CPUC is vital to protecting and advancing the interests of those without the resources to effectively advocate for themselves, particularly given the complexity of utilities regulation. Additionally, it is in the interest of all ratepayers, as well as the interest of the Commission in its decision-making, to have a range of interests represented before the Commission, to ensure that more than just the majority or average ratepayer's interests are represented. A broad range of salient viewpoints on the critical issues over which the Commission presides helps it to reach the soundest available solution for the state as a whole. Neither ratepayers nor the Commission can benefit from these perspectives unless there are advocates available to advance them, which means that new advocates will need a way to learn the ropes, as more veteran advocates either retire or move into different practice areas.

² PD pp. 13-15.

³ PD p. 14.

⁴ There are some individual disallowances in the instant PD that bring Greenlining's time spent by new attorneys directly in line with the time spent by a highly experienced attorney with another organization, and other disallowances which grant Greenlining a marginal allowance of additional time, beyond that spent by the seasoned attorney. Greenlining contends that the latter are very reasonable, and that the same treatment should be given to the former disallowances as well.

Attorneys cannot gain this critical experience unless their early career development is supported. Ratepayers subsidize the cost of recruitment and retention programs at the utilities, because it is in the public interest to ensure that as seasoned professionals move on, the next generation is trained and ready to take the helm. It is similarly in the public interest for ratepayers to support the development of consumer advocates, subject of course to reasonableness and cost-effectiveness limits.⁵ As such, a modest allowance to support new consumer advocates as they gain the necessary experience will cost ratepayers little, but will help to ensure that their interests are well represented over time.

2. It is reasonable for new attorneys to receive assistance and guidance from supervisors at certain key points in the proceeding

The PD disallows several hours for duplication of efforts between two Greenlining staff – in some instances two new attorneys (the equivalent of entry-level associates), in others a new attorney and a supervising attorney.⁶ It appears from the PD’s discussion that this time all arose when two staff attended meetings or conference calls together. Greenlining does not wish to offer any specific recommended changes to the disallowances discussed in the PD, but does offer the following comments and urges the Commission to re-examine Greenlining’s recorded hours with them in mind.

First, as to the instances in which a new attorney and a supervising attorney both attended a meeting or a conference call, Greenlining offers the following. It is not uncommon in the legal profession for a newer attorney to handle the bulk of a case or proceeding, with guidance and oversight from a supervising attorney. It is also not uncommon for the supervising attorney to step in at key points in the proceeding, such as direct negotiations with ally and opposing parties. These are points at which the position of the party/organization must be represented with the authority of a supervisor, and which will rely on details with which the newer attorney will be more familiar than the supervisor. At these points, from a standard of professional conduct it is appropriate for both attorneys to attend in representation of their organizational client.

Speaking strictly from Greenlining’s experience, as a nonprofit we often find we have more to do than we have resources, and are as such conscious of the balance between efficiency and thorough advocacy. Our Fellowship program, which brings in new attorneys for on-the-job training, heightens this

⁵ The relatively small size of the pool of consumer advocates who practice regularly before the Commission, and the even smaller number of those attorneys who are in their first or second years of practice, will naturally keep related costs to a minimum. It is also worth reiterating that Greenlining does not claim that it is reasonable for a new attorney to spend substantially more time on tasks than would a more experienced attorney. We only suggest that it is reasonable that a new attorney would spend a little more time on tasks than a more experienced attorney, and that the cost of this incremental increase in time (especially billed at a new attorney rate) is reasonable in comparison to its long-term consumer advocacy benefits.

⁶ PD, p. 14.

consideration. There are times when thorough advocacy requires new attorneys to be accompanied by a more experienced practitioner, who can help to read the political and policy landscape and respond accordingly, in a manner that (hopefully) best advances the organization's position. Greenlining endeavors to keep these times to a minimum, in the interest of efficiency, but does act accordingly when we believe the situation warrants.

As to the times when two new attorneys attended the same meeting or conference call, by way of explanation Greenlining offers the following. Ms. Chung was a Legal Fellow in 2009-2010, during which time the bulk of the work on this phase of the proceeding was performed. However, as Ms. Chung's fellowship drew to a close, it became clear that the proceeding would not conclude before the end of the fellowship, and that another attorney would need to take the lead role in the proceeding. Ms. Miller was selected to assume stewardship of the proceeding after Ms. Chung's departure, and as such began participation earlier to ensure a smooth and efficient transition of responsibilities.

Again here, Greenlining is aware that most Commission proceedings do not start and end within a neat one-year time frame, and that this presents challenges when juxtaposed with the one-year Fellowship program. However, as discussed above, Greenlining sees great value in supporting the development of new consumer advocates, particularly from diverse communities and perspectives, and urges the Commission to consider this value in determining reasonable compensation for the efforts of Greenlining and other intervenors who may face similar challenges.

B. A Clarification Regarding Outreach to Coalition Members and CBOs

Finally, the PD disallows 8.3 hours of Ms. Chung's time over ten entries for "outreach to coalition members and CBOs." Greenlining realizes that this description of time does not specify the nature of these conversations, and so wishes to offer a clarification. At the beginning of the proceeding, when these conversations took place, Ms. Chung was reaching out to Greenlining's member and other network organizations to find out how their constituents and patrons were faring as shutoff rates were climbing – what problems had individuals experienced, what assistance was being sought from CBOs, what aspects of the arrearage and disconnection process could have gone better for these households, etc. This was part of Greenlining's research process, much as attending utility focus groups was part of the research process for other consumer groups. Greenlining will endeavor to provide greater detail as to the nature and purpose of tasks like this in any future intervenor compensation claims. Greenlining offers this explanation in the hopes that the Commission might find a relationship between this time and Greenlining's contribution in this proceeding.

III. CONCLUSION

Greenlining truly appreciates the Commission's administration of its intervenor compensation program, which has made it possible for the underrepresented to have a representative voice in critical debates over matters that mean a great deal to a great many Californians. We respectfully offer up the foregoing for the Commission's consideration, both as pertains to the claim herein at issue, and generally for future claims submitted by Greenlining as well as by other similarly situated intervenors.

Respectfully submitted,

Dated: January 3, 2011

/s/ Stephanie C. Chen
Stephanie C. Chen
Senior Legal Counsel
The Greenlining Institute

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CERTIFICATE OF SERVICE

I, Stephanie Chen, am 18 years of age or older and a non-party to the within proceeding. I hereby certify that I have this day served a copy of

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on all known parties to R.10-02-005 by transmitting an e-mail message with the document attached to each party named in the official service list and by faxing or mailing a properly addressed copy by first-class mail with postage prepaid to those whose e-mail address is not available.

I certify that the foregoing is true and correct.

Executed in Berkeley, California on January 3, 2011.

/s/ Stephanie C. Chen
Stephanie C. Chen

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