

Decision \_\_\_\_\_

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

Order Instituting Rulemaking to Revise and Clarify Commission Regulations Relating to the Safety of Electric Utility and Communications Infrastructure Provider Facilities.	Rulemaking 08-11-005 (Filed November 6, 2008)
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**DECISION GRANTING REQUEST OF MUSSEY GRADE ROAD ALLIANCE FOR INTERVENOR COMPENSATION FOR SUBSTANTIAL CONTRIBUTIONS TO DECISION 12-01-032**

<b>Claimant:</b> Mussey Grade Road Alliance (MGRA or Alliance)	<b>For contribution to Decision (D.) 12-01-032</b>
<b>Claimed (\$):</b> \$105,696	<b>Awarded (\$):</b> \$92,661 (reduced 12.33%)
<b>Assigned Commissioner:</b> Michel Peter Florio	<b>Assigned ALJ:</b> Timothy Kenney
<b>Claim Filed:</b>	March 16, 2012

**PART I: PROCEDURAL ISSUES**

<b>A. Brief Description of Decision:</b>	D.12-01-032 adopted regulations to reduce the fire hazards associated with overhead power lines and aerial communications facilities in close proximity to power lines.
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**B. Claimant must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:**

	<b>As Stated by Claimant</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference (PHC):	No PHC	Correct
2. Other Specified Date for NOI:	2/19/2009	Correct
3. Date NOI Filed:	2/19/2009	Correct
4. Was the NOI timely filed?		Yes
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	Rulemaking (R.) 08-11-005	Correct
6. Date of ALJ ruling:	3/16/2009	Correct
7. Based on another CPUC determination:	N/A	Correct
8. Has the claimant demonstrated customer or customer-related status?		Yes
<b>Showing of "significant financial hardship" (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	R.08-11-005	Correct
10. Date of ALJ ruling:	3/16/2009	Correct
11. Based on another CPUC determination:	N/A	Correct
12. Has the Claimant demonstrated significant financial hardship?		Yes
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.12-01-032	Correct
14. Date of Issuance of Final Decision:	1/18/2012	Correct
15. File date of compensation request:	3/16/2012	Correct
16. Was the request for compensation timely?		Yes

**C. Additional Comments on Part I:**

#	Claimant	CPUC	Comment
1	MGRA		Line 13 – The Alliance also made substantive contributions during the first phase of this proceeding. Some of these issues were continued in Phase 2, while one issue that the Alliance contributed to (vegetation management) was partially/temporarily resolved in Phase 1. We therefore elected to wait to claim intervenor compensation until this issue (and our contribution to it) was more fully resolved in Phase 2. We will therefore also be referring to R.08-11-005, Phase 1, D.09-08-029, issued 8/25/2009 in our intervenor compensation claim.

**PART II: SUBSTANTIAL CONTRIBUTION**

**A. Claimant’s description of its contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059):**

Contribution	Citation to Decision or Record (Provided by Claimant)	Showing Accepted by CPUC
<p>Note: For definition of contribution types, see Comment 2 in Section C.</p> <p>For definition of issue, see Comment 3 in Section C.</p>	<p>For reference abbreviations, see Comment 4 in Section C and Attachment 4, “MGRA Phase 2 Contributions”.</p> <p>Reference is listed for key quotations, but all other references are explicitly listed by issue in Attachment 4, “MGRA Phase 2 Contributions”.</p>	
<p>1. Proposed requirement for contingency planning for extreme fire weather events to prevent ignition of multiple catastrophic fires, in the form of a new rule.</p> <p>Contested Proposal 4 re: General Order (GO) 95, Rule 18C.</p> <p>Resulted in creation of GO 166, Section 1.E.</p> <p>Primary Issue: CP</p>	<p>MGRA-1009-OB, at 12: “Due to the magnitude of harm that could be caused by events that significantly exceed design requirements, electric utilities have a responsibility to have contingency plans in place to reduce potential for multiple fire ignitions under the most extreme hazard conditions.”</p> <p>D.12-01-032, at 48: “We agree with MGRA that electric utilities should develop and implement fire-prevention plans to address situations where it is reasonably</p>	<p>Accepted.</p>

<b>Contribution</b>	<b>Citation to Decision or Record (Provided by Claimant)</b>	<b>Showing Accepted by CPUC</b>
	<p>foreseeable that strong winds may exceed the structural limits of overhead electric facilities during periods of high fire danger.”</p> <p>D.12-01-032, at 170: “The new Standard 1.E of GO 166 that is adopted by today’s decision is subject to the other provisions in GO 166, including the requirement to update a fire-prevention plan annually and to conduct an annual exercise of the fire-prevention plan.”</p> <p>For all other references to record, see column CP in Attachment 4.</p>	

Contribution	Citation to Decision or Record (Provided by Claimant)	Showing Accepted by CPUC
<p>2. Proposed that state-wide maps be prepared that indicate where power line fires are most likely to occur. Obtained co-sponsorship of Consumer Protection and Safety Division (CPSD) and support of Cal Fire for the proposal.</p> <p>Contested Proposals 14A, 14B, 14C.</p> <p>Attended mapping workshops, and invited world academic experts in fire risk mapping (Prof. Moritz, Prof. Saah).</p> <p>Initiator Issue: Mp</p>	<p>MGRA-1009-OB, at 44: “CPSD and MGRA crafted an ordering paragraph with the intent of gathering all the stakeholders to discuss the development and technical review of a statewide utility specific map, which is the Proposed Rule Changes (PRC) currently before the Commission.</p> <p>D.12-01-032, at 136: “The CPSD/MGRA proposal consists of an ordering paragraph that would require electric Investor-owned Utilities (IOUs) and CIPs to prepare a work plan, in consultation with CPSD and Cal Fire, for the development of statewide, high-resolution maps that combine wind and vegetation data to identify areas where there is a high risk of catastrophic power-line fires occurring.”</p> <p>D.12-01-032, at 145: “We will order the CIPs and electric IOUs to participate in a workshop with CPSD and Cal Fire for the purpose of preparing a detailed work plan to develop and adopt statewide, high-resolution maps that accurately designate areas where there is a high threat of power-line fires occurring and spreading rapidly.”</p> <p>For all other references to the record, see column Mp in Attachment 4.</p>	<p>Accepted.</p>

Contribution	Citation to Decision or Record (Provided by Claimant)	Showing Accepted by CPUC
<p>3. Proposed rule requiring utilities to collect fire data. Originally proposed in Phase 1, this was tabled until Phase 2, when it was re-introduced as Proposal 13A. At this time, CPSD became a co-sponsor of the rule. While declining to adopt the CPSD/MGRA rule per se, the Commission adopted its finding that fire data collection on fires would be in the public interest, and called for a workshop in Phase 3 in which parties would develop a plan for how CPSD would use the collected data.</p> <p>Initiator Issue: DC</p>	<p>MGRA-1009-OB, at 36: “Consider the intent of the PGC: to collect a volume of data on small, insignificant fires in order to allow the identification of causes that might potentially apply to large fires. It follows that data that is to be of use to the utilities and to CPSD would need to be as complete and unbiased as possible, and further that it would need to include technical information that is sufficiently detailed to be of use to the electrical utilities.”</p> <p>D.12-01-032, at 132: “We agree with CPSD and MGRA that requiring electric IOUs to report information on power-line fires would be very useful in formulating fire prevention measures and gauging the effectiveness of the adopted measures. The collection and reporting of data is a prerequisite for any serious program of sustained and cost-effective fire-safety improvement.”</p> <p>D.12-01-032, at 133: “We conclude that it is in the public interest to hold facilitated workshops in Phase 3 where the parties can jointly develop a plan for CPSD to collect data on power-line fires from the electric IOUs, analyze the data, and use this information to formulate measures to reduce the number of fires ignited by power lines.”</p> <p>For all other references to record, see column DC in Attachment 4.</p>	<p>Accepted.</p>

Contribution	Citation to Decision or Record (Provided by Claimant)	Showing Accepted by CPUC
<p>4. With LA County successfully opposed Pacific Gas and Electric Company’s (PG&amp;E) alternative “meet and confer” for data collection. (MAP 13B) Contributor Issue: DC</p>	<p>MGRA-1009-OB, at 41: “We believe that this ordering paragraph would simply delay the collection of this important data. Furthermore, the proposed ordering paragraph contains no goals, objectives or solid deliverables aside from a report that CPSD and the utilities would co-author as a result of their discussions.”  D.12-01-032, at 134: “PG&amp;E’s proposal does not go far enough.”</p>	<p>Accepted.</p>
<p>5. With other parties, argued for rejection of San Diego Gas &amp; Electric Company (SDG&amp;E) proposal for greatly expanded trim distances in Phase 1. SDG&amp;E proposal was not adopted. Supported adoption of CPSD sponsored trimming guidelines. Contributor Issue: VM</p>	<p>MGRA-0905-OB, at 2: “The introduction by SDG&amp;E of a proposed rule that tree trimming be extended from its current minimum of 18 inches to 25 radial feet at time of trim. As residents of a rural, historic, oak canopy road, as well as a wildland-urban interface high fire hazard area, we are particularly sensitive to proper management of tree-trimming.”  D.09-08-029, at 29: “The revisions to Appendix E that we adopt today increase the minimum clearance at the time of trim for ‘Extreme and Very High Fire Threat Zones’ in Southern California and are consistent with the changes proposed by CPSD.”  For all other references to record, see column VM in Attachment 4.</p>	<p>Accepted.</p>

Contribution	Citation to Decision or Record (Provided by Claimant)	Showing Accepted by CPUC
<p>6. Successfully opposed with other parties extension of trim distances proposed by SDG&amp;E in Phase 2. Only party representing a rural area with scenic heritage trees, where SDG&amp;E trimming program is currently underway.</p> <p>Contributor Issue: VM</p>	<p>MGRA-1009-OB, at 26: “All proponents and electrical utilities agree that electric utilities have authority to trim beyond the minimum distances specified in Rule 35, Appendix E. The Guideline language (discussed in the subsequent sections) makes it clear that ‘[r]easonable vegetation management practices may make it advantageous to obtain greater clearances.’”</p> <p>D.12-01-032, at 102: “Electric utilities have wide latitude under Appendix E to exceed the minimum time-of-trim clearances whenever ‘[r]easonable vegetation management practices may make it advantageous to obtain greater clearances.’”</p>	<p>Accepted.</p>
<p>7. Adoption of “reasonableness” standard for tree trimming in Phase 1.</p> <p>Improvement Issue: VM</p>	<p>Joint-0905-Rpt, at 127: “The Alliance suggested the term reasonable be included in this section, which was adopted. The clarification that additional trimming beyond the stated minimum clearances be reasonable is consistent with Rule 35 language.”</p> <p>D.09-08-029, at 30: “Reasonable vegetation management practices may make it advantageous to obtain greater clearances than those listed below.”</p>	<p>Accepted. See Part I.C above.</p>
<p>8. Successfully proposed language that led to adoption of “public safety” and “reliability” guidelines as justifications for extension of trim distances. (MAP 8, alternative C)</p> <p>Improvement Issue: VM</p>	<p>MGRA-1009-OB, at 27: “The Alliance believes that further clarification of <i>why</i> the utilities are enabled to do so will not only help property owners understand the motivation for trimming beyond the minimum, but will also help to indicate to the utilities the Commission’s intent that tree trimming be “reasonable.”</p> <p>D.12-01-032, at 106: “We agree that</p>	<p>Accepted, in part. D.12-01-032 rejected some of MRGA’s recommendations on this issue. See D.12-01-032 at 106.</p>

<b>Contribution</b>	<b>Citation to Decision or Record (Provided by Claimant)</b>	<b>Showing Accepted by CPUC</b>
	<p>Appendix E should be revised to state that companies may exceed the minimum time-of-trim guidelines when necessary for “public safety” and “reliability,” as these reasons are directly related to the safety and reliability purposes of GO 95. Adding these reasons to Appendix E should help electric utilities and CIPs explain to property owners why vegetation needs to be trimmed.”</p>	
<p>9. With other parties, opposed proposal 7A, which would allow utilities to cut off power to meters at all properties owned by a person who does not allow access for trimming.</p> <p>While the proposal was approved, significant mitigation was put in place limiting the shut off to one meter at the owner’s primary residence.</p> <p>Alternative Issue: VM</p>	<p>MGRA-1009-OB, at 20: “Under this PRC, the utility would have full authority to remove power from compliant agricultural parcels, worker residences, rental properties and a shopping center, affecting the livelihoods and safety of dozens or hundreds of individuals, while the property owner sits happily in Idaho or Uruguay.”</p> <p>D.12-01-032, at 92: “In order to keep the remedy of shutting off power focused on the customer responsible for obstructing vegetation management, we will limit the electric utilities’ authority to shut off power to one meter serving the property owner’s primary residence.”</p>	<p>Accepted, in part. D.12-01-032 rejected most of MRGA’s recommendations on this issue. See D.12-01-032 at 90-95.</p>

<b>Contribution</b>	<b>Citation to Decision or Record (Provided by Claimant)</b>	<b>Showing Accepted by CPUC</b>
<p>10. With other parties, successfully opposed proposal 7B, which would allow utilities to shield themselves from liability if property owners refuse to grant them access to their property</p> <p>Contributor Issue: VM</p>	<p>MGRA-1009-OB, at 23: “The responsibility of the utility to aggressively seek access and conduct required vegetation management would vanish or be much reduced because the utility’s civil liabilities would have been shifted from it to the customer.”</p> <p>D.12-01-032, at 98: “In our opinion, the proposal would likely exacerbate fire hazards by removing the incentive for electric utilities and CIPs to aggressively pursue vegetation management on the properties of recalcitrant landowners.”</p>	Accepted
<p>11. Suggestion of a multi-phased proceeding to obtain quick-wins. Improvement (also suggested by Southern California Edison Company)</p> <p>Issue: Pr</p>	<p>MGRA-0812-Cmt, at 5: “Break the OIR into phases, and use the initial workshop to identify “quick win” regulatory changes to pursue during the first phase.”</p> <p>CPUC-0901-Scp, at 2: “This proceeding will be conducted in two phases. The first phase will consider measures to reduce fire hazards that can be implemented in time for the 2009 autumn fire season in Southern California.”</p>	Accepted.
<p>12. Successfully opposed, along with other parties, proposal to move all technical rulemaking issues to the Rules Committee.</p> <p>Contributor Issue: Pr</p>	<p>MGRA-0812-Rpl, at 1-4; MGRA-0908-RCm</p> <p>CPUC-0911-Scp, at 16: “The Rules Committee’s recommendations will be advisory. The workshop participants may accept, modify, or reject the recommendations in any manner they deem appropriate. Workshop participants may also decide which recommendations, if any, should be included in the workshop report described previously.”</p>	Accepted.

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

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?</b>	Yes	Correct
<b>b. Were there other parties to the proceeding with positions similar to the claimant's?</b>	Yes	Correct
<b>c. Names of other parties (if applicable):</b> MGRA engaged in several issues during these proceedings, and collaborated with the following parties on specific issues - CPSD, Cal Fire, Los Angeles County, California Farm Bureau Federation (CFBF), The Utilities Reform Network (TURN), AT&T (working on behalf of the CIP Coalition).		Correct
<b>d. Claimant's description of how Claimant coordinated with DRA and other parties to avoid duplication or of how Claimant's participation supplemented, complemented, or contributed to that of another party:</b> Unique/complimentary/supplementary MGRA contributions: <ul style="list-style-type: none"> <li>- Only party comprised of rural residents of a fire-prone area who are utility customers.</li> <li>- Not being a government entity allows us to generate proposals freely without seeking approval from a bureaucracy. (For example, MAPs 4, 13, 14)</li> <li>- Only party aside from Cal Fire and LA County with scientific expertise available to study fire issues.</li> </ul> Specific collaboration: CPSD: Worked closely with CPSD on a number of issues and were in close alignment throughout Phase 1 and Phase 2. Sought and obtained co-sponsorship of two proposals (data collection and fire map review), strengthening the proposals and avoiding duplication. Cal Fire: Sought and obtained Cal Fire support for mapping rule, including collaboration with them on acceptable language. Organized meetings between Cal Fire and CPSD. Sought guidance and obtained support on data collection issues. LA County: Discussion of numerous issues, and consistently obtained their support for our initiatives. CFBF: Close alignment on vegetation management issues. Unified an MGRA MAP and a CFBF MAP into one proposal for procedural simplicity. TURN: Alignment on issues affecting ratepayers, such as MAP 7 utility proposals to shed liability or cut power to multiple meters. AT&T (on behalf of the CIP Coalition): Provided information both in workshops and in discussions with Mr. Fenikile regarding critical inputs for accurate fire hazard maps for utilities, and regarding potential consultants.	Mostly correct. We find that MGRA unnecessarily duplicated, to some degree, the participation of other parties with respect to issues 2 through 6 and 9 through 12 in Part II.A above.	

## C. Additional Comments on Part II:

#	Claimant Comments
1.	<p>The Alliance contributed to Petition 07-11-007, supporting SDG&amp;E's request for an Order Instituting Rulemaking (OIR) regarding power line fire safety. While this request was denied, the Alliance urged the Commission to instigate an OIR to examine GO 95 and other fire safety regulations. This included a presentation to the full Commission on this topic on October 14, 2008. No compensation has been requested for these earlier contributions.</p>
2.	<p><b>Contribution Types.</b> There are various types and levels of contribution that the Alliance interventions provided. These are defined and explained below.</p> <p><b>Primary:</b> A Primary contribution is one in which the Alliance made a unique and definitive difference in supplying information not supplied by any other party. The Alliance can show that "but for" its intervention, the Decision would have likely reached a different conclusion.</p> <p><b>Initiator:</b> In instances where the Alliance was an "Initiator", it was the first to bring a particular issue or analysis to the Commission's attention. Other parties subsequently made additions or improvements that were accepted by the Commission.</p> <p><b>Contributor:</b> While not initiating an analysis or study, the Alliance made a significant contribution to it. Also, in decisions or conclusions which take into account many different factors, the Alliance's results contribute one or more of these factors.</p> <p><b>Improvement:</b> The Alliance commented on an existing process or measure and its suggestion was adopted in the final decision.</p> <p><b>Complementary:</b> The Alliance chose a different method or analysis than that used in the Final Decision, but which is consistent with it and supports the same results.</p> <p><b>Alternative:</b> The Alliance reached a conclusion or presented an analysis at variance with the Decision or with the Final EIR/EIS, but which raised important points.</p>
3.	<p><b>Abbreviations for issues that MGRA was involved in, and reference to applicable sections of Scoping Memo for Phase 1 and Phase 2.</b></p> <p><b>Pr:</b> Procedural</p> <p><b>VM:</b> Vegetation Management (Phase 1: 2.2.5, Phase 2: 2.5, 2.16, 2.17)</p> <p><b>DC:</b> Data Collection (Phase 1: 2.2.1, Phase 2: 2.1, 2.13, 2.23)</p> <p><b>Mp:</b> Fire Threat Maps for Utilities (Phase 1: 2.2.6, Phase 2: 2.6, 2.11, 2.12)</p> <p><b>CP:</b> Contingency Planning for Extreme Weather (Phase 1: 2.2.6, Phase 2: 2.6)</p>
4.	<p><b>Abbreviations for citations to the record.</b> A full list, including a breakdown of references by Issue, can be found in Attachment 4, MGRA_Phase2_Contributions.</p> <p><b>MGRA-0812-Cmt:</b> Mussey Grade Road Alliance Comments on Order Instituting Rulemaking R.08-11-005</p> <p><b>MGRA-0812-Rpl:</b> Mussey Grade Road Alliance Late-Filed Reply Comments to Parties on Order Instituting Rulemaking R.08-11-005</p> <p><b>CPUC-0901-Scp:</b> Assigned Commissioner's Ruling And Scoping Memo</p> <p><b>MGRA-0901-PRI:</b> Mussey Grade Road Alliance Proposed Reporting Rule to Be Implemented in</p>

#	Claimant Comments
	<p>Time for The 2009 Fire Season</p> <p><b>MGRA-0903-RCm:</b> Mussey Grade Road Alliance Comments on the CPSD Proposed Rules to Be Implemented in Time for The 2009 Fire Season</p> <p><b>MGRA-0904-Rpl:</b> Mussey Grade Road Alliance Reply Comments</p> <p><b>Joint-0905-Rpt:</b> Joint Party Workshop Report For Workshops Held April 28 – 29, 2009</p> <p><b>MGRA-0905-OB:</b> Mussey Grade Road Alliance Opening Brief for Order Instituting Rulemaking R.08-11-005</p> <p><b>MGRA-0906-RB:</b> Mussey Grade Road Alliance Reply Brief for Order Instituting Rulemaking R.08-11-005</p> <p><b>MGRA-0908-RCm:</b> Mussey Grade Road Alliance Reply Comments to Party Comments in the Matter of the Proposed Decision for Phase One of the Order Instituting Rulemaking R.08-11-005</p> <p><b>D.09-08-029:</b> Decision Ii Phase 1 – Measures to Reduce Fire Hazards in California Before the 2009 Fall Fire Season</p> <p><b>MGRA-0910-PHC:</b> Mussey Grade Road Alliance Pre-Conference Hearing Statement for R.08-11-005 PHASE 2</p> <p><b>CPUC-0911-Scp:</b> Assigned Commissioner’s Ruling And Scoping Memo For Phase 2 Of This Proceeding</p> <p><b>MGRA-0912-P2R:</b> Mussey Grade Road Alliance Proposed Phase 2 Rules</p> <p><b>Joint-1008-Wkp:</b> Phase 2 Joint Parties’ Workshop Report for Workshops Held January – June 2010</p> <p><b>MGRA-1009-OB:</b> Mussey Grade Road Alliance Opening Brief For Order Instituting Rulemaking R.08-11-005 Phase 2</p> <p><b>MGRA-1009-RB:</b> Mussey Grade Road Alliance Reply Brief for Order Instituting Rulemaking R.08-11-005 Phase 2</p> <p><b>CPSD-1010-MSR:</b> Motion of the Consumer Protection and Safety Division and Mussey Grade Road Alliance to File a Sur-Reply to Reply Brief of Pacific Gas &amp; Electric Company; Joint Sur-Reply Brief of the Consumer Protection and Safety Division and Mussey Grade Road Alliance</p> <p><b>CPSD-1010-JSR:</b> Joint Sur-Reply Brief of the Consumer Protection and Safety Division and Mussey Grade Road Alliance to Reply Brief of Pacific Gas &amp; Electric Company</p> <p><b>MGRA-1106-DDC:</b> Mussey Grade Road Alliance Comments on Phase 2 Draft Decision</p> <p><b>MGRA-1107-DDR:</b> Mussey Grade Road Alliance Reply Comments t Phase 2 Draft Decision Comments</p> <p><b>D.12-01-032:</b> Decision Adopting Regulations to Reduce Fire Hazards Associated with Overhead Power Lines and Communication Facilities</p>

#	CPUC Comments
1.	MGRA advocated the same or similar positions as other parties on many issues. See Part II.A above, Items 2, 3, 4, 5, 6, 9, 10, 11, and 12. This resulted in MGRA sometimes duplicating the participation of other parties without concurrently complementing, supplementing, or contributing to the work of other parties.
2.	Several of MGRA’s recommendations with respect to issues 8 and 9 that are listed in Part II.A were not adopted by the Commission. MGRA did not make a substantial contribution with respect to these recommendations.

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

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

<b>a. Claimant’s explanation of how the cost of its participation bore a reasonable relationship with benefits realized through participation.</b>	<b>CPUC Verified</b>
<p>D.12-01-032, at 5: “In October 2007, strong Santa Ana winds swept across Southern California and caused dozens of wildfires. The resulting conflagration burned more than 780 square miles, killed 17 people, and destroyed thousands of homes and buildings. Hundreds of thousands of people were evacuated at the height of the fire siege. Transportation was disrupted over a large area for several days, including many road closures. Portions of the electric power network, public communication systems, and community water sources were destroyed.”</p> <p>In addition to the loss of life, suffering, and disruption mentioned in the Commission’s decision, testimony in other proceedings has shown that property damage from power line fires in 2007 was in excess of \$3 billion. While extreme weather of this type might possibly be expected only every few decades (undisputed MGRA testimony in Application (A.) 09-08-021 (at 11) suggests a range between 20 and 200 years assuming historical weather will match future weather), unless the power line fire threat is addressed the public remains exposed to extensive losses. If we amortize such losses over time, for example, were to assume a \$3 billion loss occurs every 50 years, this would be equivalent to an average cost to ratepayers of \$60 million / year.</p> <p>MGRA’s proposed rules and other activities in this proceeding were designed to reduce this fire threat</p> <ul style="list-style-type: none"> <li>- by collecting data that can be used to identify problems and measure the effect of countermeasures</li> <li>- by ensuring that utilities are guided by scientifically sound maps that identify hazard areas</li> </ul>	<p style="text-align: center;">Yes.</p> <p>The Commission has never adopted a finding of fact that property damages were in excess of \$3 billion.</p> <p>The claimant’s reasoning is speculative.</p>

- by requiring utilities plan for unusual but potentially catastrophic weather conditions that strain the engineering limits of their systems.

We do not yet know how the adoption of these and other rules will reduce the probability of catastrophes as bad or worse than the 2007 fires. One thing that characterizes the MGRA rules, however, is that rather than trying to address specific problems and issues that were brought to light during investigations of the 2007 fires, our rules are focused on addressing the overall system risk and reducing it in a general way.

Even if the fractional risk reduction were small (and we do not think it is), the saving to ratepayers (not only economic, but in risks to their lives and well-being), would dwarf the amount of intervenor compensation being sought by the Alliance.

MGRA, as rural residents of a scenic area, also expressed our concern throughout the proceedings that vegetation management issues be appropriately and sensitively handled. One proposal, for instance would have decimated “canopy roads” throughout California (MGRA-0903-RCm, at 6). The Commission has established precedent of asking utilities to be careful in their trimming practices as they ensure public safety (D.97-01-044; at 6) By clarifying the language that specifies why trimming beyond established minimums might be necessary, MGRA has made it easier for utilities to explain to property owners why extended trim might be necessary, thus reducing the potential for resistance by landowners, while at the same time making it less likely that extended trimming will occur for reasons other than public safety or reliability. While it is difficult to place a monetary value on rural California landscapes, their worth to residents, visitors, tourists, and property owners cannot be disputed. MGRA participation in this proceeding ensured that these concerns were brought before the Commission.

For purposes of determining the relative benefits in comparison to costs of participation, we agree that the long-term benefits of the fire-risk reduction measures that resulted, in large part, from the input provided by the claimant exceed the costs claimed herein.

<p><b>b. Reasonableness of Hours Claimed.</b></p> <p>The majority of the MGRA input was technical, and was prepared by MGRA expert witness Dr. Mitchell.</p> <p>Ms. Conklin worked extensively on revisions and communications with other parties, and attended a number of meetings on behalf of MGRA, where she made a number of public interventions supporting MGRA positions. She made substantive contributions to our submissions, particularly in the area of vegetation management.</p> <p>Ms. Conklin has elected to only receive compensation, however, for her participation at meetings.</p> <p>MGRA worked on four major issues and a number of minor issues, many of which were also worked on by numerous other parties with varying positions, adding to the complexity of review and argumentation.</p> <p>Not all analysis prepared by Dr. Mitchell was used in the proceeding. No compensation is requested for unused work.</p> <p>Additionally, there are specific meetings by phone bridge attended by Dr. Mitchell for which no compensation is requested.</p> <p>Due to the length of and number of workshops comprising this proceeding, it was necessary for us to make a number of trips to San Francisco. We attended by phone bridge when possible and appropriate.</p>	<p>The number of claimed hours is reasonable, except as noted in Part III.D, below.</p>																
<p><b>c. Allocation of Hours by Issue</b></p> <p>Time spent on general preparation, minor issues, and procedural issues has been divided between the four major issues listed in Comment #2 of Section II.C.</p> <p><b>Hours:</b></p> <p>Dr. Joseph Mitchell:</p> <table border="0"> <tr> <td><b>DC</b></td> <td><b>Mp</b></td> <td><b>CP</b></td> <td><b>VM</b></td> </tr> <tr> <td>73.1</td> <td>90.3</td> <td>55.9</td> <td>79.7</td> </tr> </table> <p>Diane Conklin:</p> <table border="0"> <tr> <td><b>DC</b></td> <td><b>Mp</b></td> <td><b>CP</b></td> <td><b>VM</b></td> </tr> <tr> <td>8.6</td> <td>8.6</td> <td>9.6</td> <td>35.1</td> </tr> </table>	<b>DC</b>	<b>Mp</b>	<b>CP</b>	<b>VM</b>	73.1	90.3	55.9	79.7	<b>DC</b>	<b>Mp</b>	<b>CP</b>	<b>VM</b>	8.6	8.6	9.6	35.1	<p>The allocation of hours by issue is reasonable.</p>
<b>DC</b>	<b>Mp</b>	<b>CP</b>	<b>VM</b>														
73.1	90.3	55.9	79.7														
<b>DC</b>	<b>Mp</b>	<b>CP</b>	<b>VM</b>														
8.6	8.6	9.6	35.1														

**B. Specific Claim\*:**

CLAIMED						CPUC AWARD			
ATTORNEY, EXPERT AND ADVOCATE FEES									
Item	Year	Hours	Rate	Basis for Rate	Total	Year	Hours	Rate	Total
D. Conklin	2008-2011	62	\$110	D.10-04-021, ALJ-267	\$6,820	2008	0	\$0	\$0
						2009	18.9	\$105	\$1,985
						2010	19.8	\$110	\$2,178
						2011	0	\$110	\$0
J. Mitchell	2008-2011	299	\$270	D.10-04-021, ALJ-267	\$80,730	2008	14.5	\$250	\$3,625
						2009	83	\$260	\$21,580
						2010	153.6	\$270	\$41,472
						2011	18	\$270	\$4,860
<b>Subtotal:</b>					<b>\$87,550</b>	<b>Subtotal: \$75,700</b>			
OTHER FEES									
Item	Year	Hours	Rate	Basis for Rate	Total	Year	Hours	Rate	Total
D. Conklin	2008-2011	40	\$55	D.10-04-021, ALJ-267	\$2,200	2008	0	\$0	\$0
						2009	8	\$52.5	\$420
						2010	16	\$55	\$880
						2011	0	\$55	\$0
J. Mitchell	2008-2011	56	\$135	D.10-04-021, ALJ-267	\$7,560	2008	0	\$0	\$0
						2009	8	\$130	\$1,040
						2010	40	\$135	\$5,400
						2011	8	\$135	\$1,080
<b>Subtotal:</b>					<b>\$9,760</b>	<b>Subtotal: \$8,820</b>			
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate	Basis for Rate	Total	Year	Hours	Rate	Total
J. Mitchell	2008-2011	14.8	\$135	D.10-04-021, ALJ-267	\$1,998	2012	14.8	\$135	\$1,998
<b>Subtotal:</b>						<b>Subtotal: \$1,998</b>			
COSTS									
#	Item	Detail			Amount	Total			
1	Travel	See Comment #5, and attached expense listing. Travel to six workshops and two ex-parte meetings			\$6,319	\$6,074			
2	Printing	Handouts for Commissioners and staff			\$69	\$69			
<b>Subtotal:</b>					<b>\$6,388</b>	<b>Subtotal: \$6,143</b>			
<b>TOTAL REQUEST :</b>					<b>\$105,696</b>	<b>TOTAL AWARD : \$92,661</b>			

\* We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it requested 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.

\*\* Reasonable claim preparation time typically compensated at ½ of preparer's normal hourly rate (the same applies to the travel time).

### C. Attachments and Comments to Claim Documenting the Claim:

Attachment or Comment #	Description/Comment
1	<b>Certificate of Service</b>
2	<p>Attachment 2 - <b>MBar_R08Phase2_IC.pdf</b> Time sheets for Dr. Mitchell.</p> <p>The rate specified for Dr. Mitchell in A.08-12-021 was \$260/hr, with a base year of 2008 (D.10-04-021, at 13). The following adjustments are authorized in ALJ-267:</p> <p>&lt;5% Stepwise increase to maximum for experience level. No COLA between 2008 and 2011.</p> <p>Rate requested for R.08-11-005 in 2008-2011 is then \$270/hr</p> <p>See Attachment Mbar billing A.08-12-021.pdf Billing tiers in this time sheet are as follows: Tier 0 - Unbilled time Tier 1 - Travel, Intervenor Compensation (1/2 expert rate) Tier 2 - Review/researching/revisions (full expert rate) Tier 3 - Authoring, analysis (full expert rate)</p>
3	<p>Attachment 3 - <b>DJC_R08Phase2_IC.pdf</b></p> <p>The rate specified for Ms. Conklin in A.08-12-021 was \$105/hr, with a base year of 2008 (D.10-04-021, at 13). The following adjustments are authorized in ALJ-267:</p> <p>5% Stepwise increase</p> <p>Rate requested for R.08-11-005 in 2008-2011 is then \$110/hr</p> <p>See Attachment Mbar billing A.08-12-021.pdf Billing tiers in this time sheet are as follows: Tier 0 - Unbilled time Tier 1 - Travel, Intervenor Compensation (1/2 advocate rate) Tier 2 - Review/researching/revisions, authoring, analysis (advocate rate)</p>
4	<p>Attachment 4 - <b>MGRA_Phase2_Contributions</b></p> <p>Contains a list of filings by MGRA in R.08-11-005 Phase 1 and Phase 2, as well as Commission documents that contain determinations relevant to our submissions.</p> <p>This also contains detailed citations to the record that describe which portions of each MGRA document dealt with which specific issue.</p>

5	<p><b>Attachment 5 - MGRA_R08Phase2_Costs_Total.pdf</b></p> <p>This document contains a detailed itemization of expenses incurred by MGRA intervenors as they participated in this proceeding.</p> <p>Itemized costs are given for:</p> <p>Workshops in February, 2009; January 2010; March 2010; April 2010; May 2010; and June 2010.</p> <p>Ex-parte communications with Commissioners and staff to explain the MGRA proposals: November 2010, June 2011.</p> <p>In cases where stays extended beyond MGRA attendance at the workshop, requested expenses (hotels, parking) have been reduced to the minimum required for intervention activities in this proceeding.</p> <p>Printing hand-outs for Commissioners and staff in June 2011 (\$68.90)</p>
6	<p><b>Attachment 6 - MGRA-R081105-Receipts1-15.pdf</b></p> <p>Receipts supporting Attachment 5</p>
7	<p><b>Attachment 7 - MGRA-R081105-Receipts16-31.pdf</b></p> <p>Receipts supporting Attachment 5</p>
8	<p><b>Attachment 8 – Mbar_R08Phase2_1C_Ra.pdf</b></p> <p>Time sheets for Dr. Joseph Mitchell, apportioned by issue</p>
9	<p><b>Attachment 9 – DJC_R08Phase2_IC_R1.pdf</b></p> <p>Time sheets for Diane Conklin, apportioned by issue.</p>

#### D. CPUC Disallowances & Adjustments:

#	Reason
Duplication	The claimant's participation duplicated the participation of other parties to some degree, without concurrently complementing, supplementing, or contributing to the work of other parties. The claimed hours, excluding hours for travel and claim preparation, are reduced by 5% to account for the unnecessary duplication of work.
Lack of Substantial Contribution.	There was no substantial contribution from several of the claimant's recommendations that were not adopted with respect to Items 8 and 9 in Part II.A above. The claimant did not report its time in a way that allows for a precise disallowance. Based on our observation of the claimant's participation, we find that 5% of the claimant's total hours, excluding hours for travel and claim preparation, should be disallowed for the non-substantial contribution.

#	Reason
<p>Conklin Hourly Rates for 2008 - 2011</p>	<p>The claimant requests an hourly rate of \$110 for work performed by Conklin in 2008 through 2011. As a preliminary matter, we note that Conklin's time sheet shows no hours worked for 2008. Consequently, we do not adopt in this decision an hourly rate for Conklin in 2008.</p> <p>In D.09-10-026, the Commission adopted an hourly rate of \$100 for work performed by Conklin in 2006 – 2008. In D.10-04-021, the Commission adopted an hourly rate of \$105 for work performed by Conklin in 2009, reflecting the hourly rate of \$100 for 2008 adopted by D.09-10-026, plus a step increase of 5% as set forth in D.08-04-010. Consistent with D.10-04-021, we adopt an hourly rate of \$105 for work performed by Conklin in 2009 in the instant proceeding.</p> <p>D.08-04-010 allows two step increases of 5% each, rounded to the nearest \$5 increment, over a six-year period. Conklin received her first step increase in 2009. Consistent with D.08-04-010, we will authorize a second and final step increase of 5%, to an hourly rate of \$110, for work performed by Conklin in 2010. We adopt the same hourly rate for work performed by Conklin in 2011. There are no COLA adjustments applicable to 2009 – 2011 pursuant to Resolutions ALJ-235, ALJ-247, and ALJ-267.</p>
<p>Mitchell Hourly Rates for 2008 - 2011</p>	<p>The claimant requests an hourly rate of \$270 for work performed by Mitchell in 2008 through 2012.</p> <p>In D.09-10-026, the Commission adopted an hourly rate of \$250 for work performed by Mitchell in 2006 – 2008. This was at the high end of hourly rates adopted by the Commission for experts with 7-12 years of experience. Consistent with D.09-10-026, we adopt an hourly rate of \$250 for work performed by Mitchell in 2008 in the instant proceeding.</p> <p>In D.10-04-021, the Commission adopted an hourly rate of \$260 for work performed by Mitchell in 2009, reflecting the hourly rate of \$250 adopted by D.09-10-026 for work performed by Mitchell in 2008, plus a step increase of 5% as set forth in D.08-04-010. Consistent with D.10-04-021, we adopt an hourly rate of \$260 for work performed by Mitchell in 2009 in the instant proceeding.</p> <p>In D.09-10-026, the Commission held that the period of Mitchell's relevant experience commenced in 2001. Therefore, Mitchell will remain in the range of 7-12 years of relevant experience through 2012.</p> <p>D.08-04-010 allows two annual step increases of 5% each, rounded to the nearest \$5 increment, not to exceed the maximum hourly rate adopted by the Commission for a given range of experience. Mitchell received his first step increase in 2009, and is eligible for his second step increase in 2010, subject to the cap of \$270 for hourly rates in 2010 and 2011 that was adopted by the Commission in Resolutions ALJ-247 and ALJ 267, respectively, for experts with 7-12 years of experience. Consistent with D.08-04-010, we will authorize a second and final step increase, to the maximum allowed hourly rate of \$270, for work performed by Mitchell in 2010 and 2011.</p> <p>There are no COLA adjustments applicable to 2009 – 2011 pursuant to</p>

#	Reason
	Resolutions ALJ-235, ALJ-247, and ALJ-267.
Conklin Travel and Professional Time in 2010	<p>On April 21 – 25, 2010, Conklin logged 8 hours of travel time and 13.5 hours of professional time to attend a workshop held on April 22 - 23, 2010. Mitchell logged the same time to attend the same workshop. We consider Conklin’s time to be unnecessarily duplicative of Mitchell’s time and effort. We also disallow associated costs for Conklin’s airline tickets of \$245.40.</p> <p>On November 29 – 30, 2010, Conklin logged 3.5 hours of professional time to attend ex parte meetings with Commissioners. Mitchell logged the same time to attend the same workshop. We consider Conklin’s time to be unnecessarily duplicative of Mitchell’s time and effort.</p>
Conklin Travel and Professional Time in 2011	<p>On June 25 – 28, 2011, Conklin logged 8 hours of travel time and 2 hours of professional time to attend an ex parte meeting on June 27, 2011, with Commissioner Advisors. Mitchell logged the same time to attend the same ex parte meeting. We consider Conklin’s time to be unnecessarily duplicative of Mitchell’s time and effort.</p> <p>It does not appear the claimant requested compensation for travel-related costs, such as airline tickets.</p>
Mitchell Hourly Rate for 2012	The claimant requests an hourly rate of \$135 for the time spent by Mitchell in 2012 to prepare the claimant’s request for intervenor compensation. The requested hourly rate is one half of the Mitchell’s professional hourly rate of \$270. Today’s decision grants the requested hourly rate of \$135 for 2012, without prejudice to claimant’s ability to request a higher hourly rate for work performed by Mitchell in this and/or other proceedings in 2012.

#### PART IV: OPPOSITIONS AND COMMENTS

<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. Mussey Grade Road Alliance has made a substantial contribution to Decision (D.) 12-01-032.
2. The claimed fees and costs, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The total of reasonable compensation is \$92,661.

**CONCLUSION OF LAW**

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

**ORDER**

1. Mussey Grade Road Alliance is awarded \$92,661.
2. Within 30 days of the effective date of this decision, the total award shall be paid to Claimant from the Commission's Intervenor Compensation Fund. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning May 30, 2012, the 75th day after the filing of Claimant's request, and continuing until full payment is made.
3. The comment period for today's decision was waived.
4. This proceeding remains open to address other related matters.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**APPENDIX****Compensation Decision Summary Information**

<b>Compensation Decision:</b>		<b>Modifies Decision?</b> No
<b>Contribution Decision(s):</b>	D1201032	
<b>Proceeding(s):</b>	R0811005	
<b>Author:</b>	ALJ Timothy Kenney	
<b>Payer(s):</b>	Commission's Intervenor Compensation Fund	

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier</b>	<b>Reason Change/Disallowance</b>
Mussey Grade Road Alliance	3/16/12	\$105,696	\$92,661	No	Adjusted hourly rates; disallowed unnecessary duplication of other parties' participation; disallowed unnecessary duplication of travel hours and professional hours by intervenor's personnel.

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Diane	Conklin	Advocate	Mussey Grade Road Alliance	\$110	2009	\$105
Diane	Conklin	Advocate	Mussey Grade Road Alliance	\$110	2010	\$110
Diane	Conklin	Advocate	Mussey Grade Road Alliance	\$110	2011	\$110
Joseph	Mitchell	Expert	Mussey Grade Road Alliance	\$270	2008	\$250
Joseph	Mitchell	Expert	Mussey Grade Road Alliance	\$270	2009	\$260
Joseph	Mitchell	Expert	Mussey Grade Road Alliance	\$270	2010	\$270
Joseph	Mitchell	Expert	Mussey Grade Road Alliance	\$270	2011	\$270
Joseph	Mitchell	Expert	Mussey Grade Road Alliance	\$270	2012	\$270

**(END OF APPENDIX)**