

Decision \_\_\_\_\_

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

Order Instituting Rulemaking to Consider Smart Grid Technologies Pursuant to Federal Legislation and on the Commission's own Motion to Actively Guide Policy in California's Development of a Smart Grid System.	Rulemaking 08-12-009 (Filed December 18, 2008)
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**DECISION AWARDING INTERVENOR COMPENSATION TO THE GREENLINING INSTITUTE FOR SUBSTANTIAL CONTRIBUTION TO DECISION 12-04-025**

<b>Claimant: The Greenlining Institute (Greenlining)</b>	<b>For contribution to D.12-04-025 (Decision)</b>
<b>Claimed: \$9,794.25</b>	<b>Awarded: \$8,512 (reduced 13%)</b>
<b>Assigned Commissioner: Michael R. Peevey</b>	<b>Assigned ALJ: Timothy J. Sullivan</b>

**PART I: PROCEDURAL ISSUES**

<b>A. Brief Description of Decision:</b>	D.12-04-025 adopts consensus metrics to help measure the extent and effectiveness of Smart Grid investments made by Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company. The Decision also sets a schedule for the future review and revision of Smart Grid metrics.
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**B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:**

<b>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:	March 27, 2009	Correct
2. Other Specified Date for NOI:	April 26, 2010	A ruling by the Administrative Law Judge issued on March 26, 2010 set the date of April 26, 2010 as

		the deadline for new parties (including Greenlining) to the proceeding to file NOIs.
3. Date NOI Filed:	April 2, 2010	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:	R.08-12-009	Correct
6. Date of ALJ ruling:	July 29, 2010	Correct
7. Based on another CPUC determination (specify):		
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.08-12-009	Correct
10. Date of ALJ ruling:	July 29, 2010	Correct
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.12-04-025	Correct
14. Date of Issuance of Final Order or Decision:	April 24, 2012	Correct
15. File date of compensation request:	June 11, 2012 <sup>1</sup>	Correct
16. Was the request for compensation timely?		Yes

## PART II: SUBSTANTIAL CONTRIBUTION

### A. Claimant’s claimed contribution to the final decision:

Contribution	Specific References to Claimant’s Presentations and to Decision	Showing Accepted by CPUC
<b>A. Metrics Measuring Supplier Diversity Under GO 156</b>		Correct. Greenlining was the only party to

<sup>1</sup> In a correspondence email dated June 13, 2012, Greenlining advised the Commission that its initial filing for an award of compensation contained a one hour omission of Chen’s 2010 time. We have adjusted Greenlining’s claim to correct this error and use the adjusted totals for consideration in this claim.

<p>D.10-06-047 found that maximizing supplier diversity performance as the utilities build out the Smart Grid will help to fulfill the Smart Grid's policy goals of creating jobs, promoting economic recovery, and assisting those most impacted by the recession. It required utilities to create and implement a supplier diversity strategy as part of their Smart Grid Deployment Plans.</p> <p>Because the utilities were charged in D.10-06-047 with certain supplier diversity responsibilities related to the Smart Grid, Greenlining argued that their progress under these responsibilities should be measured by establishing metrics.</p>	<p>Opening Comments on the Proposed Metrics, 8/17/2010, pp. 2-3, 7.</p>	<p>raise GO 156 issues.</p>
<p><b>B. Equitable Deployment of Smart Grid Technologies &amp; Benefits</b></p> <p>Greenlining argued that the Smart Grid's benefits must be equitably available to all customers, regardless of factors like income and geography. As such, Greenlining argued that the Commission must adopt metrics to measure whether all customers are taking advantage of Smart Grid technologies and benefits, so that it may determine the cause of – and find a solution to – any underutilization the metrics may reveal.</p> <p>As such, Greenlining recommended modifications to proposed metrics measuring customer use of Smart Grid benefits and technologies, to track the customer class, CARE status, and census tract or climate zone.</p>	<p>Opening Comments on the Proposed Metrics, 8/17/2010, pp. 3-5, 8-9; Comments on the Smart Grid Metrics Report, 1/24/11; Opening Comments on the Proposed Decision, 4/9/12.</p> <p>D.12-04-025 noted Greenlining's arguments on this issue (pp. 9-10) and with respect to some metrics, adopted the recommendations Greenlining submitted. With respect to other metrics, the Decision found merit in Greenlining's arguments, and directed the utilities and staff that the recommended modifications to the metrics in question be taken up in the Technical Working Group process (p. 18, 43-44; FOF 13-15; Metrics, 2, 4, 5).</p>	<p>Correct</p>

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

Claimant		CPUC Verified
a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?	Yes	Yes
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Yes
<p>c. If so, provide name of other parties:</p> <p>Western Power Trading Forum; Alliance for Retail Energy Markets; Local Government Sustainable Energy Coalition; Interstate Renewable Energy Council; Environmental Defense Fund; Latino Business Chamber of Greater Los Angeles; GroundedPower, Inc.; Ember Corporation; Lantiq, Inc; Energyhub, Inc; Telecommunications Industry Association; Cisco Systems; State Privacy and Security Coalition, Inc.; Qualcomm Incorporated; The Future of Privacy Forum; Electronic Privacy Information Center; Demand Response and Smart Grid Coalition; OPower; Consumer Electronics Association; Tendril Networks, Inc.; Southwest Gas Corporation; Southern California Gas Company; Southern California Public Power Authority; Glendale Water &amp; Power; Burbank Power &amp; Water; Southern California Edison Company; San Diego Gas &amp; Electric; Higgs Fletcher &amp; Mack; California Energy Storage Alliance; Walmart Stores, Inc. &amp; Sam's West, Inc.; Ice Energy, Inc.; Utility Consumers' Action Network; Utility Savings &amp; Refund, LLC; Building Information Model-California (BIM Education Co-Op); Enernoc, Inc.; Megawatt Storage Farms, Inc.; Google, Inc.; Open Access Technology International; Coalition of California Utility Employees; Control4 Corporation; City &amp; County of San Francisco, Division of Ratepayer Advocates; San Francisco Public Utilities Commission; The Utility Reform Network; Chevron Energy Solutions; AT&amp;T Services, Inc.; EPUC; Verizon; Seakay, Inc.; Time Warner Cable Information Service CA, LLC; San Francisco Community Power; Center for Democracy &amp; Technology; Electronic Frontier Foundation; CTIA – The Wireless Association; North America Power Partners, LLC; California Pacific Electric Company, LLC; Current Group, LLC; Comcast Phone of California, LLC; Pacific Gas &amp; Electric Company; Center for the Energy Efficiency &amp; Renewable Technologies; To The Point; School Project for Utility Rate Reduction; GraniteKey, LLC; Californai Large Energy Consumers Association; Zigbee Alliance; Black Economic Council; Green Power Institute; Privacy and Cybersecurity Law and Policy Researchers; NRG Energy; Marin Energy Authority; EnergyConnect, Inc.; MyEnerSave, Inc.; Sigma Designs, Inc.; Aspect Labs, a Division of BKP Security, Inc.; Certichron; Turlock Irrigation District; CARE; California Independent System Operator Corporation; Northern California Power Agency; Technology Network; Environmental Defense Fund; Consumer Federation of California; California Cable &amp; Telecommunications Association (CCTA); Constellation Commodity Group &amp; Constellation New Energy Inc.; Sierra Pacific Power; California Association of Small and Multijurisdictional Utilities; Homegrid Forum; Office of the Information and Privacy Commission.</p>		Correct

<p><b>d. Claimant’s description of how it coordinated with DRA and other parties to avoid duplication or how claimant’s participation supplemented, complemented, or contributed to that of another party:</b></p> <p>By the nature of its advocacy, Greenlining avoided duplication with other parties in this proceeding. Greenlining was the only party advocating on the issues described above, and its advocacy was limited to these issues. However, Greenlining consistently maintains communication with consumer parties like DRA and TURN, to minimize duplication of effort.</p>	<p>We conclude that Greenlining’s participation was in addition to but not duplicative of the arguments and evidence presented by other parties.</p>
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### C. Comments on Part II:

Claimant’s Comments	CPUC Comments
<p>While D.12-04-025 did not agree with Greenlining on all of its arguments, Greenlining submits that all of its arguments contributed substantially to the record in the proceeding, were germane to the issues at hand, and allowed the Commission to engage in a more informed deliberative process, ultimately resulting in a more thoroughly-considered decision. As such, Greenlining submits that it has merited compensation on the arguments that were not adopted in the Decision, in addition to those that were.</p>	<p>Accepted</p>

## PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

a. Claimant’s explanation as to how the cost of claimant’s participation bore a reasonable relationship with benefits realized through its participation.	CPUC Verified
<p>Given that the Decision established metrics, which do not themselves have any rate or bill impact, it is difficult to predict the benefits that will result from Greenlining’s advocacy. However, the data to be gathered by the metrics Greenlining advocated for will tell utilities, consumer advocates, and the Commission whether CARE customers, small business customers, and customers in different climate zones are all accessing the benefits Smart Grid promises them. This will allow all stakeholders to remedy any deficiencies in access the reporting may uncover.</p> <p>Given the size of the customer base – low income and small business customers – that stand to benefit from Greenlining’s advocacy in this proceeding, even if the benefit is only \$1 a year for each customer, the total benefits will exceed the cost of Greenlining’s participation.</p>	<p>Greenlining’s advocacy on equitable deployment of Smart Grid technologies and benefits and on GO 156 issues constitute a contribution to the proceeding. The development of a Smart Grid will be a major procurement activity and it is important that the</p>

	<p>GO 156 compliance issues was raised and kept at the forefront of this proceeding, along with equity issues relating to Smart Grid deployment.</p> <p>We agree that the cost of Greenlining’s participation here will likely result in future benefits to customers which will exceed the cost of Greenlining’s participation.</p>
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<p><b>b. Reasonableness of Hours Claimed</b></p> <p>Greenlining’s hours are reasonable, given the scope of this proceeding. Greenlining focused only on the issues that related directly to its constituency, and did not duplicate the efforts of any other party. Greenlining’s recorded hours in the two phases of this proceeding were much less than the anticipated.</p>	<p>After the disallowances we make to this claim, the remainder of Greenlining’s hours are reasonable and should be compensated.</p>								
<p><b>c. Allocation of Hours by Issue</b></p> <p>Greenlining allocates its time by issue as follows:</p> <table border="1" data-bbox="191 1444 1156 1671"> <tr> <td>A. Metrics Measuring Supplier Diversity Under GO 156</td> <td>4.87%</td> </tr> <tr> <td>B. Equitable Deployment of Smart Grid Technologies &amp; Benefits</td> <td>59.74%</td> </tr> <tr> <td>C. General/Multiple Issues</td> <td>35.39%</td> </tr> <tr> <td><b>Total</b></td> <td><b>100.00%</b></td> </tr> </table>	A. Metrics Measuring Supplier Diversity Under GO 156	4.87%	B. Equitable Deployment of Smart Grid Technologies & Benefits	59.74%	C. General/Multiple Issues	35.39%	<b>Total</b>	<b>100.00%</b>	<p>Greenlining has satisfied the requirement to provide a breakdown of its hours by major issue in accordance with the guidance provided in D.98-04-059.</p>
A. Metrics Measuring Supplier Diversity Under GO 156	4.87%								
B. Equitable Deployment of Smart Grid Technologies & Benefits	59.74%								
C. General/Multiple Issues	35.39%								
<b>Total</b>	<b>100.00%</b>								

**B. Specific Claim\*:**

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
S. Chen	2010	8.6	185	D.12-04-043	1,591.00	7.6	185	1,406
S. Chen	2011	.1	185	D.12-04-043	18.50	.1	185	18.50
S. Chen	2012	1.4	185	D.12-04-043	259.00	1.4	190 <sup>2</sup>	266.00
E. Gallardo	2010	15.8	350	D.12-04-043	5,530.00	15.8	350	5,530.00
E. Gallardo	2011	5.9	370	D.12-04-043	2,183.00	2.9	370	1,073
<b>Subtotal: \$9,581.50</b>						<b>Subtotal: \$8,293.50</b>		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
S. Chen	2012	2.3	92.50	D.12-04-043	212.75	2.3	95	218.50
<b>Subtotal: \$212.75</b>						<b>Subtotal: \$218.50</b>		
<b>TOTAL REQUEST: \$9,794.25</b>						<b>TOTAL AWARD: \$8,512</b>		
<p>* We remind all intervenors that Commission staff may audit their records related to an 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 seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rate, fees paid to consultants and by 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 is typically compensated at ½ of preparer’s normal hourly rate.</p>								
Attorney				Date Admitted to CA BAR		Member Number		
Enrique Gallardo				Dec 1997		191670		
Stephanie Chen				Aug 2010		270917		

<sup>2</sup> We apply the 2.2% COLA (rounded to the nearest \$5.00 increment) approved in Resolution ALJ-281 to Chen’s 2012 hours here.

**CPUC Adjustments and Disallowances:**

<b>Adjustments and Disallowances</b>	
Chen 2010-2012 Hourly Rates	Chen's 2010-2012 hourly rates were previously adopted by the Commission in D.12-04-043. We apply the same hourly rates used in that decision to her 2010-2011 work here. We apply the 2.2% COLA approved in Resolution ALJ-281 to Chen's 2012 work (rounded to the nearest \$5.00 increment), and approve the hourly rate of \$190 for Chen's 2012 work.
Gallardo 2010-2011 Hourly Rates	Gallardo's 2010-2011 hourly rates were previously adopted by the Commission in D.12-04-043. We apply the same hourly rates to her 2010-2012 work here without further discussion.
Chen 2010 hours	Both Chen and Gallardo attended a one-hour 10/21/10 meeting with "EDF re: Metrics." We see no reason why two attorneys needed to attend the same meeting. We disallow Chen's time as duplicative and superfluous of Gallardo's participation. Gallardo continued to work on metrics issues in the weeks immediately following the EDF meeting. In contrast, the only subsequent work by Chen relating to metrics that Greenlining identified in the following 18 months is .1 hours of review of a Gallardo brief.
Gallardo 2011 hours	We disallow 3 hours of Gallardo's time spent "[r]eview[ing] a ruling on "Consensus Metrics" on 1/10/11. The referenced ruling was apparently one issued on 12/29/10. This ruling was 5 pages long and should not have required more than .5 hours to review.

**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(2)(6))?</b>	Yes

**FINDINGS OF FACT**

1. The Greenlining Institute has made a substantial contribution to Decision (D.)12-04-025.
2. The Greenlining Institute requested hourly rates for its representatives, which are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The total reasonable contribution is \$8,512.

**CONCLUSION OF LAW**

1. The Greenlining Institute's claim, satisfies all requirements of Public Utilities Code §§ 1801-1812.

**ORDER**

1. The Greenlining Institute is awarded \$8,512.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall each pay The Greenlining Institute their respective shares of the total award. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall allocate payment responsibility among themselves based on their 2010 California-jurisdictional electric revenues, reflecting the year in which the proceeding was primarily litigated. 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 August 25, 2012, the 75<sup>th</sup> day after the filing of The Greenlining Institute's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. This decision 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:</b>	D1204025	
<b>Proceeding:</b>	R0812009	
<b>Author:</b>	ALJ Timothy J. Sullivan	
<b>Payees:</b>	Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company	

## Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Greenlining Institute	06-11-12	\$9,794.25	\$8,512	No	Adjusted hourly rate; duplication of effort; excessive hours given scope of the work

## Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Stephanie	Chen	Attorney	The Greenlining Institute	\$185	2010	\$185
Stephanie	Chen	Attorney	The Greenlining Institute	\$185	2011	\$185
Stephanie	Chen	Attorney	The Greenlining Institute	\$185	2012	\$190 <sup>3</sup>
Enrique	Gallardo	Attorney	The Greenlining Institute	\$350	2010	\$350
Enrique	Gallardo	Attorney	The Greenlining Institute	\$370	2011	\$370

(END OF APPENDIX)

<sup>3</sup> We apply the 2.2% COLA (rounded to the nearest \$5.00 increment) approved in Resolution ALJ-281 to Chen's 2012 hours here.