

Decision \_\_\_\_\_

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

Order Instituting Rulemaking on the Commission’s Own Motion to Consider Effectiveness and Adequacy of the Competitive Bidding Rule for Issuance of Securities and Associated Impacts of General Order 156, Debt Enhancement Features, and General Order 24-B.

Rulemaking 11-03-007  
(Filed March 10, 2011)

**DECISION GRANTING COMPENSATION TO THE GREENLINING INSTITUTE FOR SUBSTANTIAL CONTRIBUTIONS TO DECISION 12-06-015**

|  |  |
|--|--|
| <b>Claimant: The Greenlining Institute (Greenlining)</b> | <b>For contribution to Decision (D.) 12-06-015</b> |
| <b>Claimed (\$): \$4,428.00</b>                          | <b>Awarded (\$): \$4,454.75</b>                    |
| <b>Assigned Commissioner: Michael R. Peevey</b>          | <b>Assigned ALJ: Seaneen M. Wilson</b>             |

**PART I: PROCEDURAL ISSUES**

**A. Brief Description of Decision:**

D.12-06-015 authorizes a Financing Rule, which replaces the Competitive Bidding Rule authorized in Resolution F-616 in 1986.

**B. Claimant must satisfy intervenor compensation requirements set forth in  
Pub. Util. 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:   | August 8, 2011            | Correct                 |
| 2. Other Specified Date for NOI:  | n/a                       |                         |
| 3. Date NOI Filed:  | May 9, 2011               | 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.) 10-02-005 | In R.08-12-009 as well. |
| 6. Date of ALJ ruling:  | March 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               | In R.10-02-005 as well. |
| 10. Date of ALJ ruling:   | June 29, 2010             | July 29, 2010           |
| 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.12-06-015               | Correct                 |
| 14. Date of Issuance of Final Order or Decision:                                  | June 7, 2012              | June 12, 2012           |
| 15. File date of compensation request:  | Aug. 6, 2012              | Correct                 |
| 16. Was the request for compensation timely?                                      |                           | Yes                     |

**PART II: SUBSTANTIAL CONTRIBUTION**

**A. In the fields below, describe in a concise manner Claimant’s contribution to the final decision.**

| <b>Contribution</b>   | <b>Specific References to Claimant’s Presentations and to Decision</b>  | <b>Showing Accepted by CPUC</b> |
|---|---|---------------------------------|
| <p><b>A. Promoting the use of diverse financial services companies (GO 156)</b></p> <p>GO 156 and the use of diverse financial service providers was a stated purpose of the rulemaking, and one of the issues that prompted Commissioner Simon to open it.</p> <p>Greenlining advocated for various tools intended to promote use of diverse financial services providers, including setting DBE procurement goals specific to financial services.</p> <p>Greenlining also argued for unbundling of financial service contracts and for DBE financial service providers to consider partnering with peer organizations to increase their collective capacity, to meet the utilities’ needs. Further, Greenlining argued that the utilities need to share information and best practices with respect to utilizing diverse financial services companies.</p> <p>Greenlining argued that supplier diversity language should be written into underwriter contracts, the same way it is written in for other prime suppliers of non-financial services. This increases the divers spend the prime contractors engage in, which benefits utilities and ratepayers, but also gives smaller DBEs an opportunity to get into the utility supply chain on a smaller scale to start.</p> <p>In reply, Greenlining agreed that replacing the CBR with a negotiated bidding process would be the best way to open up opportunities for emerging firms.</p> | <p>OIR, at 1-3; Workshop Report (Opening Remarks of Commissioner Simon), at 2-3, 14.</p> <p>Opening Comments on OIR, at 2, 7; Reply Comments on OIR, at 2.</p> <p>Opening Comments on OIR, at 6, 9.</p> <p>Opening Comments on OIR, at 7-8.</p> <p>Reply Comments on OIR, at 3.</p> | <p>Yes</p>                      |



|   |  |            |
|---|--|------------|
| <p>Financing Rule that promotes additional opportunities for WMDVBE and emerging firms, and requires the utilities to report specifically on their spend in this area in their GO 156 Annual Reports.</p>   |  |            |
| <p><b>B. Lack of competition and increased costs</b></p> <p>Greenlining’s arguments on diversity are closely tied to our arguments on competition and its ability to reduce costs – the more diverse the supplier pool, the lower the costs to utilities and ratepayers. This benefit comes in addition to the racial equity benefits inherent in providing more opportunities to diverse-owned companies.</p> <p>Greenlining argued that the Competitive Bidding Rule as was then written, and the often-used process for obtaining exemptions, drove up costs to ratepayers because it diminished competition to provide the best price for the service needed. Greenlining argued that the rule should be either revised, or eliminated and replaced, in order to decrease this outcome.</p> <p>Statements from the utilities confirmed Greenlining’s assertion that the current rule and procedures increase the cost of financing, as compared to what could be achieved through a negotiated bidding process.</p> <p>D.12-06-015 adopted a new Financing Rule that utilities could elect to use instead of a competitive bidding process, as long as the chosen method resulted in the lowest available cost of capital.</p> <p>The Decision noted that the Financing Rule will broaden the supplier pool of underwriters and investors, which will better reflect of the population served by both the utilities and the broader financial market.</p> | <p>Opening Comments on OIR, at 3-4;<br/>Reply Comments on OIR, at 3-4.</p> <p>Workshop Report, at 4-6.</p> <p>D.12-06-015, at 2, 13, 19-20;<br/>FOF 5; COL 1.</p> <p>D.12-06-015, at 14.</p> | <p>Yes</p> |

**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 yours?</b>  | Yes             | Correct  |
| <b>c. If so, provide name of other parties:</b> CenturyTel of Eastern Oregon, Inc.; RBS Global Banking & Markets; Samuel A. Ramirez & Co., Inc.; The Williams Capital Group, L.P.; Castleoak Securities, L.P.; Lebenthal & Co., Inc.; Blaylock Robert Van, LLC; Loop Capital Markets, LLC; Southwest Gas Corporation; Park Water Company; Apple Valley Ranchos Water Company; Verizon California, Inc.; Valencia Water Company; San Gabriel Valley Water Company; Southern California Edison Company; Golden State Water Company; San Diego Gas & Electric Company; Southern California Gas Company; Ducor Telephone Company; Kerman Telephone Company; Foresthill Telephone Company, Inc.; Sierra Telephone Company, Inc.; The Ponderosa Telephone Company; DRA; Pacific Gas and Electric Company; Pacific Bell Telephone Company; AT&T California and certain of its regulated affiliates; Surewest Telephone Company; Calaveras Telephone Company/Small LECs; California Pacific Electric Company, Inc.; California Water Association and its Class A Water Companies; California Association of Competitive Telecommunications Companies (CALTEL); San Jose Water Company; California Water Service Company; Great Oaks Water Company; Pinnacles Telephone Company; Citizens Telecommunications Company of CA; Frontier Communications West Coast, Inc./Frontier Communications of the Southwest, Inc.; Volcano Telephone Company; California-American Water Company; Cal-Ore Telephone Company; The Siskiyou Telephone Company; Happy Valley Telephone Company/Hornitos Telephone Company; Winterhaven Telephone Company; Pacificorp. |                 | And Suburban Water Systems   |
| <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><br><br>Greenlining was somewhat uniquely situated among the parties to this proceeding. Greenlining advocated for better inclusion of diverse-owned financial services firms through the modification of the Competitive Bidding Rule, and through better coordination with GO 156. There were other parties advocating for this result; however, Greenlining was the only party that is intimately familiar with the workings of GO 156 and the utilities’ supplier diversity practices (outside of the utilities themselves, of course). The other parties advocating for more inclusive financial services were providers of services themselves, and as such were less familiar with the policy aspects represented by Greenlining, but far more versed in the day-to-day workings of the services they offer. As such, together we provided complementary points of view on the same issue, and did not duplicate each other’s work.  |                 | We make no reductions to Greenlining’s claim for unnecessary duplication of effort with other parties. |

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

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

| <p><b>a. Concise explanation as to how the cost of Claimant’s participation bears a reasonable relationship with benefits realized through participation:</b></p>  | <p><b>CPUC Verified</b></p>   |
|--|---|
| <p>It is unclear what ratepayers stand to benefit from the policy and rule changes made in this proceeding that relate to Greenlining’s advocacy. Actual savings will depend on how much work is done with diverse firms in the coming years, that would have been done with other firms, and the difference in cost between the two options. However, the Commission supports the longstanding principle that increased competition in the supplier pool reduces costs. As such, it is all but guaranteed that the utilities and their ratepayers will see savings resulting from the more diverse financial services supplier pool. These savings will almost certainly be greater than the very small amount of cost Greenlining claims here.</p>   | <p>Except as noted below (in Parts III-B and III-D) regarding specific hourly rates, we agree that Greenlining’s hours are reasonable and that its efforts resulted in measurable benefits to customers which far outweigh the cost of its participation.</p> |
| <p><b>b. Reasonableness of Hours Claimed.</b></p> <p>Greenlining’s hours are reasonable, in part because of its niche role in this proceeding, as described above in Part II(B)(d), and also because we limited our participation to a narrow subset of issues within our area of expertise. Greenlining assigned a lead counsel, Mr. Young, who handled the bulk of the proceeding with minimal oversight and guidance by senior counsel, Ms. Chen. Further, Greenlining’s recorded hours were substantially less than the already-minimal estimate provided in its NOI, with both Ms. Chen and Mr. Young reporting only one third of the time anticipated in the NOI. Greenlining is also the sole intervenor to file an NOI in this proceeding, rendering overall intervenor costs for the proceeding unusually low.</p> <p>It should be noted that in some instances, Mr. Young spent more time on certain activities, including drafting filings, than perhaps a more experienced attorney would have. Mr. Young was a Fellow during his participation in the proceeding, in his first year of practice. This was one of the first proceedings in which he served as lead counsel for Greenlining. While his relative inexperience may have resulted in more time spent on certain tasks, that inexperience is also reflected in the low rate at which his time is billed. As such, it is reasonable for a new attorney to spend a little more time on certain tasks than a more experienced one.</p> | <p>Except as noted below (in Parts III-B and III-D) regarding specific hourly rates, we agree that Greenlining’s hours are reasonable and that its efforts resulted in measurable benefits to customers which far outweigh the cost of its participation.</p> |

|  |  |        |  |        |                            |        |              |             |   |
|--|--|--------|--|--------|----------------------------|--------|--------------|-------------|---|
| <p><b>c. Allocation of Hours by Issue</b></p> <p>Greenlining’s time is allocated by issue category as follows:</p> <table border="1" style="width: 100%;"> <tr> <td>A. Promoting use of diverse financial service companies (GO 156)</td> <td style="text-align: right;">61.39%</td> </tr> <tr> <td>B. Lack of competition and increased costs</td> <td style="text-align: right;">20.85%</td> </tr> <tr> <td>C. General/Multiple Issues</td> <td style="text-align: right;">17.76%</td> </tr> <tr> <td><b>Total</b></td> <td style="text-align: right;"><b>100%</b></td> </tr> </table> | A. Promoting use of diverse financial service companies (GO 156) | 61.39% | B. Lack of competition and increased costs | 20.85% | C. General/Multiple Issues | 17.76% | <b>Total</b> | <b>100%</b> | <p>Except as noted below (in Parts III-B and III-D) regarding specific hourly rates, we agree that Greenlining’s hours are reasonable and that its efforts resulted in measurable benefits to customers which far outweigh the cost of its participation.</p> |
| A. Promoting use of diverse financial service companies (GO 156)   | 61.39%   |        |  |        |                            |        |              |             |   |
| B. Lack of competition and increased costs   | 20.85%   |        |  |        |                            |        |              |             |   |
| C. General/Multiple Issues   | 17.76%   |        |  |        |                            |        |              |             |   |
| <b>Total</b>   | <b>100%</b>  |        |  |        |                            |        |              |             |   |

**B. Specific Claim:\***

| CLAIMED  |      |       |         |                 |                   | CPUC AWARD       |        |                   |
|--|------|-------|---------|-----------------|-------------------|------------------|--------|-------------------|
| ATTORNEY, EXPERT, AND ADVOCATE FEES  |      |       |         |                 |                   |                  |        |                   |
| Item   | Year | Hours | Rate    | Basis for Rate* | Total \$          | Hours            | Rate   | Total \$          |
| Stephanie Chen   | 2011 | 2.2   | \$185   | D.12-04-043     | 407.00            | 2.2              | 185.00 | 407.00            |
| Stephanie Chen   | 2012 | 3.8   | \$185   | D.12-04-043     | 703.00            | 3.8              | 190.00 | 722.00            |
| Ryan Young   | 2011 | 19.9  | \$150   | D.12-04-043     | 2,985.00          | 19.9             | 150.00 | 2,985.00          |
| <i>Subtotal:</i>   |      |       |         |                 | <b>\$4,095.00</b> | <i>Subtotal:</i> |        | <b>\$4,114.00</b> |
| INTERVENOR COMPENSATION CLAIM PREPARATION **   |      |       |         |                 |                   |                  |        |                   |
| Item   | Year | Hours | Rate    | Basis for Rate* | Total \$          | Hours            | Rate   | Total \$          |
| Stephanie Chen   | 2011 | .5    | \$92.50 | D.12-04-043     | 46.25             | .5               | 92.50  | 46.25             |
| Stephanie Chen   | 2012 | 3.1   | \$92.50 | D.12-04-043     | 286.75            | 3.1              | 95.00  | 294.50            |
| <i>Subtotal:</i>   |      |       |         |                 | <b>\$333.00</b>   | <i>Subtotal:</i> |        | <b>\$340.75</b>   |
| <p>*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 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 typically compensated at ½ of preparer’s normal hourly rate.</p> |      |       |         |                 |                   |                  |        |                   |

| Attorney       | Date Admitted to CA BAR | Member Number |
|----------------|-------------------------|---------------|
| Stephanie Chen | August 23, 2010         | 270917        |

**C. CPUC Disallowances and Adjustments:**

| #   | Reason   |
|---|--|
| Adjustment to Stephanie Chen's 2012 hourly rate | Pursuant to Resolution ALJ-281, the 2011 rate of \$185 for Stephanie Chen is updated using a 2.2% inflation factor for 2012. This revised 2012 rate is \$190.00. |

**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 (see Rule 14.6(c)(6))?</b> | Yes |
|---|-----|

**FINDINGS OF FACT**

1. Greenlining has made a substantial contribution to Decision (D.) 12-06-015.
2. The requested hourly rates for Greenlining's representatives, 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 contribution is \$4,454.75.

**CONCLUSION OF LAW**

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

**ORDER**

1. The Greenlining Institute is awarded \$4,454.75.
2. Within 30 days of the effective date of this decision, The CPUC's Intervenor Compensation Fund shall pay \$4,454.75, plus interest. 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 October 20, 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.

This decision is effective today.

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

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

|                                  |   |                              |
|----------------------------------|---|------------------------------|
| <b>Compensation Decision:</b>    |   | <b>Modifies Decision? No</b> |
| <b>Contribution Decision(s):</b> | D1206015                                |                              |
| <b>Proceeding(s):</b>            | R1103007                                |                              |
| <b>Author:</b>                   | ALJ Seaneen M. Wilson                   |                              |
| <b>Payer(s):</b>                 | The CPUC'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> |
|---------------------------|-------------------|-------------------------|-----------------------|-------------------|-----------------------------------|
| The Greenlining Institute | 08/06/12          | \$4,428.00              | \$4,454.75            | No                | Adjusted hourly rates             |

**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> |
|-------------------|------------------|--------------|---------------------------|-----------------------------|----------------------------------|---------------------------|
| Stephanie         | Chen             | Attorney     | The Greenlining Institute | \$185                       | 2011                             | \$185                     |
| Stephanie         | Chen             | Attorney     | The Greenlining Institute | \$185                       | 2012                             | \$190 <sup>1</sup>        |
| Ryan              | Young            | Legal Fellow | The Greenlining Institute | \$150                       | 2011                             | \$150                     |

**(END OF APPENDIX)**


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<sup>1</sup> Applies the 2.2% COLA approved in Resolution ALJ-281.