Decision **PROPOSED DECISION OF ALJ DARLING** (Mailed 3/19/2012)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking for the Purpose of Reviewing and Potentially Amending General Order 156 and to Consider Other Measures to Promote Economic Efficiencies of an Expanded Supplier Base and to Examine the Composition of the Utilities' Workforce.	Rulemaking 09-07-027 (Filed July 30, 2009)

DECISION GRANTING INTERVENOR COMPENSATION TO BLACK ECONOMIC COUNCIL, THE LATINO BUSINESS CHAMBER OF GREATER LOS ANGELES, AND THE NATIONAL ASIAN AMERICAN COALITION FOR SUBSTANTIAL CONTRIBUTION TO DECISION 11-05-019

Claimant: Black Economic Council (BEC), the Latino Business Chamber of Greater Los Angeles (LBCGLA) and National Asian American Coalition (NAAC)[1] filing as the "Joint Parties."	**For contribution to:** Decision (D.) 11-05-019
Claimed: $601,001.00[2]	**Awarded**: $318,361.75 (reduced 47 %)
Assigned Commissioner: Michael R. Peevey	**Assigned ALJ:** Melanie M. Darling

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:

D.11-05-019 made several amendments to General Order (GO) 156, some as a direct result of the proceeding and some to implement Assembly Bill (AB) 2758. The decision sets forth findings, recommendations, and best practices regarding supplier utility diversity programs, the role of the community based organizations (CBOs), and the Supplier Clearing House.

[1] On April 7, 2011, the Joint Parties filed a Notice of Change of Name of Party, indicating that Mabuhay Alliance has been renamed the National Asian American Coalition, effective September 1, 2010.

[2] *See* footnote 11.

B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent (NOI) to claim compensation (§ 1804(a)):		
1. Date of Prehearing Conference:	February 29, 2010	Yes
2. Other Specified Date for NOI:	April 30, 2010[3]	Yes
3. Date NOI Filed:	April 26, 2010 (BEC) April 29, 2010 (NAAC) April 30, 2010 (LBCGLA)	Yes[4]
4. Were the notices of intents timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	Rulemaking (R.) 09-07-027	Yes
6. Date of ALJ ruling:	July 6, 2010	Yes
7. Based on another CPUC determination (specify):		
8. Has the claimant demonstrated customer or customer-related status?		Yes
Showing of "significant financial hardship" (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.09-07-027	Yes
10. Date of ALJ ruling:	July 6, 2010	Yes
11. Based on another CPUC determination (specify):		
12. Has the claimant demonstrated significant financial hardship?		Yes

[3] *See* the March 17, 2010 Assigned Commissioner and Administrative Law Judge Scoping Memo and Ruling Determining the Scope, Schedule and Need for Hearings in this Proceeding. The final date to file Notices of Intent to Claim Compensation was April 30, 2010.

4 The July 6, 2010 Administrative Law Judge's Ruling on Notices of Intent by Various Parties and Other Matters found that BEC, NAAC (formerly known as Mabuhay Alliance, Inc., and the LBCGLA had each timely filed its NOI.

Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision	D.11-05-019	Yes
14. Date of Issuance of Final Decision:	May 6, 2011	Yes
15. File date of compensation request:	July 1, 2011[5]	Yes
16. Was the request for compensation timely?		Yes

C. Claimant's Additional Comments on Part I:

Initial intervention was by the Black Voice, amended to be the BEC. Subsequent to the BEC intervention, the NAAC (formerly, Mabuhay Alliance) and the LBCGLA sought to intervene. Thereafter, the three separate nonprofit minority business organizations representing the three major minority business communities (Black, Latino, and Asian American) joined together, had common counsel, and was referred thereafter as the Joint Parties. This occurred to ensure, as requested by the ALJ, to coordinate efforts for common purposes and to avoid or minimize duplication. Further, the Joint Parties, where possible followed the ALJ's request to coordinate with all other interested minority business communities, including the California Hispanic Chamber of Commerce (CHCC) and California Asian Pacific Chamber of Commerce (CAPCC). Because more than half of disabled veterans in California are minority veterans and all three groups had specific expertise in this area, all three represented not just minority veterans but all disabled veterans.

PART II: SUBSTANTIAL CONTRIBUTION:

A. Claimant's claimed contribution to the final decision:[6]

Contribution	Citation to Decision or Record	Showing Accepted by CPUC
1. Meeting by the BEC with President Request by the BEC in July 2009 seeking an Order Instituting Rulemaking (OIR) on diversity be launched and provided evidence and support for such including legal analysis under Proposition 209.	§2 at 5 §5 at 24	Yes

[5] In a June 23, 2011 email to Robert Gnaizda, ALJ Darling granted an extension until July 15, 2011 for the Joint Parties to timely file their request for compensation. We remind these parties that future claims which lack strict adherence to the timeliness requirements of §1804(c), may be denied outright.

[6] The Joint Parties are reminded that Part II requires that they cite to their work in the proceeding in support of their claimed contribution. They have failed to do so here. We have painstakingly parsed through the Joint Parties' document in this case, but remind the Joint Parties that future claims which fail to include these citations will face disallowances.

2. Expanded technical assistance and capacity building.	§4 at 12-13 §4.6 at 23	Yes
3. Greater emphasis on small, minority women and disabled veteran-owned businesses.	§3.2 at 10-11 §5.1 at 26 §5.3 at 37 §4.3 at 16-17	Yes
4. Need for additional workshops regarding technical assistance and capacity building, including special focus in professional services, financial green energy, and electric procurement.	§3.2 at 10-11	Yes, the decision acknowledges the need for additional workshops regarding technical assistance and capacity building, but we find no reference to the "special focus in professional services, financial green energy and electric procurement" in the Section the Joint Parties provide here.
5. Emphasis on underutilized professional services, including legal, financial, and media.	§§5.4.1-5.4.3 at 41-43 §4.6 at 18	See discussion below that follows:
6. Expanded Voluntary Goals for minorities, women, including women of color, and disabled veterans.	§4.3 at 16-17 §5.1 at 25	
Discussion of contributions contained in #5 and #6 – The Joint Parties asked the Commission[7] to acknowledge that the voluntary efforts by utilities have been unsuccessful and to order the utilities to (i) provide information on minorities at contract law firms, and (ii) develop alternative strategies and methods for improving spend in legal services (e.g., consortiums of Women Minority Disabled Veterans Business Enterprises (WMDVBEs)). The Commission declined to order the utilities to gather this information as part of the voluntary program, in favor of recommending utilities reach out and work with their contract firms. The Joint Parties made the same comments as for Legal services and the Commission declined to mandate such data collection. The Decision endorsed the Staff recommendation that utilities share information on experienced financial services WMDVBEs and suggested all utilities carefully review the reported range of opportunities for growth in this area. The Joint Parties agreed that low spend in advertising should be addressed, particularly by more use of minority/ethnic media. The decision declined to adopt the request by the Joint Parties to order utilities to gather information about minorities employed at majority advertising firms. The decision recommends that small and diverse businesses in this category should reach out to the utilities to better understand available opportunities, for assistance in creating partnerships, and to attend or host networking events.		

[7] See discussion starting at 41 of the Decision.

7. Coordinating substantial business expertise in an open-ended workshop environment.	§4.6 at 23-24	Yes, the decision[8] recommends that the CBOs and Staff work together to develop workshops to identify best practices, including showcasing successful programs, encourage utilities to share experienced WMDVBEs, explore the mechanics of bid partnerships, review the current state of advertising spend, and identify relevant consulting specialties.
8. Unbundling of large contracts.	§5.6.1 at 48	Yes
9. Focus on small businesses and contracts of one million dollars or less.	§5.6.1 at 48-49	Yes
10. Seeking extension of time to ensure final briefs would cover October 2010 en banc proceeding and using it to supplement workshops.	§3.3 at 11-12	Yes
11. Need for more workshops jointly hosted by utilities and CBOs.	§5.10.3 at 65-66	Yes
12. CBOs working more closely with utilities.	§5.10.3 at 65-66 §5.6.2 at 50-51	Yes
13. Mentoring of CBOs and small businesses.	§5.6.2 at 50-51	Yes
14. Expansion and expediting of certification process to increase the database.	§5.9 at 61-62 §5.8 at 56 §4.3 at 16	Yes
15. Creating an environment to encourage other large companies not directly subject to GO 156 to want to participate, such as cable companies and Silicon Valley companies.	See many of the citations in contributions in 1-13 that encourage corporations not directly subject to GO 156 to participate.	Yes

[8] *Id*. at 44.

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

The Black Economic Council states that it was the sole party to secure this OIR as a result of a July 2009 meeting with Mike Peevey that was attended by a broad range of Black business and church groups of the BEC. The NAAC and the LBCGLA representing the other two major minority constituencies subsequently filed and determined to use common counsel and where possible common resources to avoid duplication.

All three groups reached out to other parties to coordinate efforts, including Greenlining, which focused mainly on policy, and the CHCC and CAPCC.

	Claimant	CPUC Verified
a. Was Division of Ratepayer Advocates (DRA) a party to the proceeding?	No	Correct
b. Were there other parties to the proceeding?	Yes	Correct
c. If so, provide name of other parties: Primary other parties were Greenlining Institute, CHCC, CAPCC, American Indian Chambers of Commerce (AICC), Pacific Gas and Electric Company (PG&E), AT&T, Southern California Edison (Edison), San Diego Gas & Electric Company (SDG&E), Gray, Greer, Shelby & Vaughn, LLC, Pacificorp, Park Water Company, CTIA, Coalition of California Utility Employees, California Water Association, Disability Rights Advocate, Disabled Veterans Business Enterprise Alliance, Verizon, SureWest Telephone, Sierra Pacific Power Company, and Sprint Nextel.		Correct
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: The Joint Parties took the lead in many aspects including being the <u>sole initiator</u> in the successful effort for an OIR. This included being the primary party to: a) set forth specific additional goals for the Black, Latino, and Asian American business communities and overall women and disabled veteran goals; b) proposed very substantial broad-based technical assistance and capacity building to ensure that companies could both meet their minimum GO 156 goals and achieve aspirational goals referred to in the decision. The Joint Parties also took the lead regarding suggestions in the workshop environment that the proceedings: a) develop mechanisms for enhancing a focus on small minority-owned businesses, particularly in California, in the context of their potential to lower rates and produce jobs in California, b) a special focus on underutilization of women of color, c) underutilization of minority disabled veterans, d) underutilization of professional services with particular emphasis on media, advertising, consulting, legal and		We make no reduction to The Joint Parties' Claim for duplication of effort, as their timesheets demonstrate that they coordinated their efforts with other parties to supplement, complement or contribute to that of the work of the other parties in this proceeding.

financial institutions, and e) green energy efforts. By the very nature of a workshop environment, as contrasted to an adversarial environment, different parties made different contributions, based in large part upon their professional experience and expertise. Except for the combined efforts of the CHCC/CAPCC and AICC, the Joint Parties were the only minority parties who continuously participated and that had major direct small business minority experience, input and expertise. Throughout the proceeding, this expertise was utilized to maximize the effectiveness of the workshop environment.	

PART III: REASONABLENESS OF REQUESTED COMPENSATION REQUEST

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

Claimant's explanation as to how the cost of claimant's participation bore a reasonable relationship with benefits realized through claimant's participation.
Almost $15 billion a year in contracts are awarded by the companies covered in this decision. This decision is likely to increase the share of contracts to minority-owned businesses from an average of 20% to as high as 40% of all contracts. Even a one percent differential amounts to $150 million a year in additional contracts to this cohort. Over a ten year period, this amounts to $1.5 billion. The attorney and expert fees requested represent far less than one tenth of one percent (00.1%) of this amount. In fact, the intervenor fees will be an even far less percentage of benefits should, as anticipated, the vast majority of corporations, reach 30% goals within five years and virtually all major utilities reach 40% within five years. However, the other benefits could be far greater: 1) It is highly likely that through the decision and the supplemental workshops to be scheduled that a greater focus will be on small businesses located in California. This could represent a minimum shifting of the recipients of contracts by 2% or more each year. 2% of $15 billion is $300 million a year or $3 billion over ten years. As the decision points out, a shifting of contracts to more businesses, particularly small businesses, is likely to lower costs and thereby minimize rate increases. Although this is difficult to specifically quantify, consider that according to DRA estimates, Edison's proposed rate increase will cost rate payers $4.6 billion and the combined Southern California Gas Company and SDG&E increases will cost rate payers $4 billion. Assuming very conservatively, that there might be a 2% savings and factoring in PG&E future proposed rate increases, which could be in the same general amounts as Edison and Sempra, $80 million a year in reduced costs could occur for rate payers or $800 million over the next 10 years. (Based on 2% of approximately $4 billion a year in rate increases from the three major utilities).

CPUC Verification of the Reasonableness of the Joint Parties' claim:
D.98-04-059 directs customers to demonstrate the productivity of their participation by assigning a reasonable dollar value to the benefits of their participation to ratepayers.[9] The costs of a customer's participation should bear a reasonable relationship to the benefits realized through its participation. This showing assists us in determining the overall reasonableness of the request. In a proceeding such as this one, which focused on the benefits achieved through increased diversity, it is difficult to assign a dollar value to the Joint Parties' participation. Since D.11-05-019 will likely increase the success of the GO 156 program and overall procurement from WMDVBE business by the Utilities, likely increase education and outreach to WMDVBE's, and likely increase methods by which to include qualified WMDVBE's through capacity-building mechanisms, we agree that the intangible economic benefits that come with increasing diversity in procurement could be very substantial. As a result, the Joint Parties' work in this proceeding may be expected to save ratepayers many times the cost of its participation. In addition, since diversifying the supply chain results in local and statewide economic stimulus and job creation, particularly with respect to communities of color, ratepayer savings along with these economic benefits are likely to exceed the cost of the Joint Parties' participation. We make reductions and adjustments to the Joint Parties' claim in areas described in detail in Part III, Section C of this decision. After these reductions, disallowances and adjustments, the remaining hours and costs demonstrate that the Joint Parties' participation was productive and reasonable, and should be compensated.

B. Specific Claim:*

CLAIMED[10]						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	**Year**	**Hours**	**Rate $**	**Rate Reasoning**	**Total $**	**Year**	**Hours**	**Rate $**	**Total $**
R. Gnaizda	2009-2011	678.10	535	Adopted here	362,783.50	2009-2011	485.95	535	259.983.25
					***Subtotal:* $362,783.50**				***Subtotal:* $259,983.25**
EXPERT FEES									
Item	**Year**	**Hours**	**Rate $**	**Rate Reasoning**	**Total $**	**Year**	**Hours**	**Rate $**	**Total $**
L. Canty	2009-2011	187.80	350	Adopted here	65,730.00[11]	2009-2011	90.50	150	13,575.00
F. Bautista	2009-2011	266.80	350	Adopted here	93,380.00	2009-2011	105.00	150	15,750.00
J. Corralejo	2009-2011	142.30	350	Adopted here	49,805.00	2009-2011	33.60	150	5,040.00

[9] *See* D.98-04-059 at 34-35.

[10] The Joint Parties' claim fails to breakdown its participants hours by calendar year. Future claims if filed, should provide a yearly breakdown of hours for each participant, rather than lumping them all together as the Joint Parties have done here.

[11] The Joint Parties made a calculation error here, which we correct and then re-calculate its request for an award.

					***Subtotal:* $208,915.00**				***Subtotal:* $34,365.00**
OTHER FEES (Paralegal)									
Item	**Year**	**Hours**	**Rate $**	**Rate Reasoning**	**Total $**	**Year**	**Hours**	**Rate $**	**Total $**
D. Polk	2009-2011	83.50	80	Adopted here	6,680.00	2009-2011	62.50	80	5,000.00
A. Lewis	2010-2011	220.25	90	Adopted here	19,822.50	2010-2011	180.15	90	16,213.50
The Joint Parties waive their costs for travel to Washington D.C.,[12] to the Commission and to Los Angeles to attend a meeting on technical assistance and miscellaneous expenses. The Joint Parties estimate these expenses if claimed, would have been in excess of $12,000.									
					***Subtotal:* $26,502.50**				***Subtotal:* $21,213.50**
INTERVENOR COMPENSATION CLAIM PREPARATION**									
Item	**Year**	**Hours**	**Rate $**	**Rate Reasoning**	**Total $**	**Year**	**Hours**	**Rate $**	**Total $**
D. Polk	2011	35.00	80	½ rate adopted here	2,800.00	2011	35.00	80	2,800.00
					***Subtotal:* $2,800.00**				***Subtotal:* $2,800.00**
COSTS									
The Joint Parties waive miscellaneous costs which they estimate to be in excess of $4,000									
					TOTAL REQUEST: $601,001.00[13]				**TOTAL AWARD: $318,361.75[14]**

*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.

**Normally, we compensate reasonable claim preparation time at ½ of the preparer's hourly rate. Here, however, since the Joint Parties utilized its paralegal to perform this task, we recognize their efforts at utilizing the most efficient processing method available to them, and do not reduce the hourly rate or the amount of hours claimed for this task. We approve the time the Joint Parties spent on these matters without reduction due to the parties' newness to Commission proceedings. We expect to see that future claims for compensation will demonstrate a greater proficiency in this area and as such, a significant reduction in hours necessary to prepare the NOI and compensation claim.

[12] We note that no other equally active intervenors who received awards for their substantial contribution to D.11-05-019, and who requested and have received reimbursement for travel expenses, received compensation for any trips to this location as a result of their participation in this proceeding.

[13] *See* footnote 11.

[14] The Commission made a totaling error in its initial proposed decision (PD) mailed to all parties. We have corrected this error, made adjustments to the award as outlined in Part IV, and re-calculate the final award.

C. CPUC Adoptions, Adjustments and Disallowances:

Item	Adoptions
2009-2011 hourly rates for Robert Gnaizda	The Joint Parties request an hourly rate of $535 for Robert Gnaizda's 2009-2011 work in this proceeding. This is the same amount that was adopted by the Commission for Gnaizda's 2008 work in D.09-06-016. Resolutions ALJ-235, ALJ-247, and ALJ-267 disallow Cost of Living Allowance increased for intervenor work during the 2009-2011 periods. We adopt an hourly rate of $535 for Gnaizda's 2009-2011 work here.
2009-2011 hourly rates for Dyana Polk	The Joint Parties request an hourly rate of $80 for Polk's 2009-2011 paralegal work. We find this rate reasonable and consistent with our past hourly rate adoptions for work performed by paralegals[15] during these years and approve the rate as requested.
2009-2011 hourly rates for law student Aaron Lewis	The Joint Parties request an hourly rate of $90 for the 2010-2011 work of law student Aaron Lewis. We find this rate reasonable and consistent with our past hourly rate adoptions for work performed by law students[16] during these years and approve the rate as requested.
2009-2011 hourly rates for Len Canty with BEC	The Joint Parties request an hourly rate of $350 for the 2009-2011 work of Len Canty as an expert. According to the Joint Parties, Canty has more than 20 years of experience advocating on behalf of Black small businesses and is the Chair of the BEC, which runs black technical assistance programs in California. The Joint Parties proffers that the programs are supported by a broad range of affected utilities and financial institutions. Canty is the founder and former Chief Executive Officer of NuCapital Access Group, a private equity venture capital fund founded in 1993. Prior to that, Canty founded a mortgage brokerage firm in 1994. Canty was former President of 100 Black Men of the Bay Area and Chairman at the African American Economic Empowerment conference and has lectured at Cal State University of the East Bay on African American entrepreneurship. Based on his background, the Joint Parties submit that an hourly rate of $350 is justified for Canty's 2009-2011 work. Canty has no previous work before the Commission for which he has received compensation. D.08-04-010 at 7 (Rates for New Representatives) states: > Intervenor representatives who previously have not appeared before the Commission must make a showing in the compensation request to justify their proposed hourly rate. The requested rate must be within the established range of rates for any given level of experience, and, consistent with the guidelines in D.05-11-031, must take into consideration the rates previously awarded other

[15] *See* D.09-07-017 and D.10-07-013.

[16] *See* D.11-03-025.

	representatives with comparable training and experience, and performing similar services. (*See* § 1806.)[17] The Joint Parties have made no effort to compare the training and experience of Canty to any known individuals who have practiced before the Commission and whom have received similar hourly compensation for work similar to the work Canty performed. We have reviewed Canty's timesheets to examine the work he performed on behalf of the Joint Parties. Typically for an expert at the requested hourly rate, we would expect to see work performed similarly to that of an attorney with approximately 8-12 years of experience in matters before the Commission, as the hourly rates for this group is ($300-$355). Instead of rejecting outright the Joint Parties' hourly rate request for Canty because of its failure to justify this rate, we exercise our own independent review of his timesheets in consideration of the requested rate. It is important to note that CHCC was granted its requested hourly rate of $350 for its attorney Garcia[18] in this proceeding.[19] Because the hourly rate request for both Canty and Garcia are the same, we find it appropriate to compare the work performed by both individuals in this proceeding. During October 12, 2009 and November 8, 2010[20] Garcia performed the following: review and analysis of draft, drafting reply comments and executive summary, prepare and deliver remarks at CPUC hearing in Los Angeles, review and drafting of reply comments, factual and legal analysis for client, preparing comments for CPUC workshop, developing arguments for improved outreach to Hispanic community, review and analysis of White Paper draft, review and comment on filings on Utilities interim step plans, development of a model for technical assistance and outreach to respond to ALJ. During this same period of review, Canty's timesheets indicate the following activities: discussions with Gnaizda regarding review of preliminary, secondary and final draft review and next steps, lunch with Gnaizda regarding final draft review, discussion with Gnaizda regarding next steps discussions with Gnaizda regarding en banc hearing. We find most striking that Canty's timesheets lack work of a substantive nature, attendance at workshops and or Commission meetings, or the development of matters regarding expertise performed by experts. We find that Canty's work more closely resembles that of an advocate and approve an hourly rate of $65 for his 2009-2011 work in this proceeding.[21]

[17] §1806 states that any award for compensation shall take into consideration the market rates paid to persons of comparable training and experience who offer similar services.

[18] Garcia is a practicing attorney with over 35 years experience in mergers, acquisitions, financing, commercial transactions, business structuring, healthcare law, as well as the representation of clients before regulators.

[19] *See* http://docs.cpuc.ca.gov/efile/REQUEST/138558.pdf for a complete list of Garcia's qualifications.

[20] We compare this time period because as the proceeding wore on, Garcia relinquished his participation to more junior attorneys and advocates.

[21] We approved this same hourly rate for CAPCC's advocates Joel Ayala and Julian Canete in the same proceeding.

	***See* Part IV-hourly rate has been adjusted.**
2009-2011 hourly rates for Faith Bautista with NAAC	The Joint Parties request an hourly rate of $350 for the 2009-2011 work of Faith Bautista as an expert. According to the Joint Parties, Bautista is the Chair of the NAAC in addition to having owned a business for over 20 years (1986-2006). The Joint Parties proffer that Bautista has been considered by many utilities and telecom companies as a lead expert for Asian American small businesses. The Joint Parties state that Bautista has conducted technical assistance and capacity building seminars and programs with Fortune 500 corporations and is a former member of the Sempra consumer advisory board and a former member of the Thrift Supervision Minority Financial Institution advisory board. In addition, the Joint Parties state that Bautista has provided small business information to a large Filipino American television channel and is presently Chair of the CPUC's marketing and strategy committee for Low Income Oversight Board (LIOB) and was recently honored by the Commission at its 100th anniversary celebration. Because of Bautista's background and experience, the Joint Parties request that the Commission approve an hourly rate of $350 for her 2009-2011 work as a proceeding "expert." Bautista has no previous work before the Commission for which she has received compensation. D.08-04-010 at 7 (Rates for New Representatives) states: > Intervenor representatives who previously have not appeared before the Commission must make a showing in the compensation request to justify their proposed hourly rate. The requested rate must be within the established range of rates for any given level of experience, and, consistent with the guidelines in D.05-11-031, must take into consideration the rates previously awarded other representatives with comparable training and experience, and performing similar services. (*See* § 1806.)[22] The Joint Parties have made no effort to compare the training and experience of Bautista to any known individuals who have practiced before the Commission and whom have received similar hourly compensation for work similar to the work Bautista performed. We have reviewed Bautista's timesheets to examine the work she performed on behalf of the Joint Parties. Typically for an expert at the requested hourly rate, we would expect to see the work performed similarly to that of an attorney with approximately 8-12 years of experience in matters before the Commission, as the hourly rates for this group is ($300-$355). Instead of rejecting outright the Joint Parties' hourly rate request for Bautista because of its failure to justify this rate, we exercise our own independent review of her timesheets in consideration of the

[22] §1806 states that any award for compensation shall take into consideration the market rates paid to persons of comparable training and experience who offer similar services.

	requested rate. It is important to note that CHCC was granted its requested hourly rate of $350 for its attorney Garcia[23] in this proceeding.[24] Similar to our findings above for Canty, we do not find that Bautista prepared documents of a substantive nature, nor was she involved in developing documents, reports, etc. which we would typically see in expert timesheets.[25] We do note that Bautista was present at meetings with the Utilities, attended Commission meetings and did perform some research matters. We note that similar to our findings for Canty, that 26% of Bautista's time was spent on internal communications, mostly discussions with Gnaizda.[26] We find that Bautista's work more closely resembles that of an advocate and approve an hourly rate of $65 for Bautista's 2009-2011 work in this proceeding.[27] ***See* Part IV -hourly rate has been adjusted.**
2009-2011 hourly rates for Jorge Corralejo with LBCGLA	The Joint Parties request an hourly rate of $350 for the 2009-2011 work of Jorge Corralejo as an expert. According to the Joint Parties, Corralejo is the Chair and Executive Director of the LBCGLA and has owned a business for more than 30 years and has been an active member of various Latino business chambers for nearly 30 years. In 2010, his organization held 32 separate technical assistance and/or capacity building workshops in Southern California, many of which the Joint Parties states were sponsored by the utilities and telecom companies. The LBCGLA states that it serves directly or indirectly approximately 500,000 Latino-owned businesses. The Joint Parties state that Corralejo was chosen to be the chief spokesperson for minority small businesses to address the problems confronting small businesses before the Federal Deposit Insurance Corporation (FDIC) at its September 2010 conference which was held in the District of Columbia. In addition, the Joint Parties proffer that President Obama chose Corralejo to represent Latino business leaders at a June 2010 conference. Corralejo has no previous work before the Commission for which he has received compensation. D.08-04-010 at 7 (Rates for New Representatives) states: Intervenor representatives who previously have not appeared before the Commission must make a showing in the compensation request to justify their proposed hourly rate. The requested rate must be

[23] Garcia is a practicing attorney with over 35 years with experience in mergers, acquisitions, financing, commercial transactions, business structuring, healthcare law, as well as the representation of clients before regulators.

[24] *See* footnote 10.

[25] In this proceeding, the participants most responsible for the preparation and analysis of the Joint Parties work were Gnaizda (Attorney), Polk (Paralegal), and Lewis (Law Student), whose hourly rates are all approved as requested.

[26] We reduce these hours for all participants for excessiveness.

[27] *See* footnote 12.

	within the established range of rates for any given level of experience, and consistent with the guidelines in D.05-11-031, must take into consideration the rates previously awarded other representatives with comparable training and experience, and performing similar services. (*See* § 1806.)[28] The Joint Parties have made no effort to compare the training and experience of Corralejo to any known individuals who have practiced before the Commission and who have received similar hourly compensation for work similar to the work Corralejo performed. We have reviewed Corralejo's timesheets to examine the work he performed on behalf of the Joint Parties. Typically for an expert at the requested hourly rate, we would expect to see work performed similar to that of an attorney with approximately 8-12 years of experience in matters before the Commission, as the hourly rates for this group is ($300-$355). Instead of rejecting outright the Joint Parties' hourly rate request for Corralejo because of its failure to justify this rate, we exercise our own independent review of his timesheets in consideration of the requested rate. It is important to note that CHCC was granted its requested hourly rate of $350 for its attorney Garcia[29] in this proceeding.[30] Similar to the timesheets of Canty and Bautista, Corralejo's time includes many entries for communications and meetings with Gnaizda, equal to 46%[31] of Corralejo's work. Much like the work of Canty and Bautista, Corralejo reviewed the documents filed by the Joint Parties, and spent only small amounts of time "preparing for workshop" and "preparing for oral argument." The substantive documents that were produced in this proceeding were reviewed by, but not prepared by the various Joint Party experts. We find that Corralejo's work more closely resembles that of an advocate and approve an hourly rate of $65 for Corralejo's 2009-2011 work in this proceeding.[32] ***See* Part IV-hourly rate has been adjusted.**

[28] §1806 states that any award for compensation shall take into consideration the market rates paid to persons of comparable training and experience who offer similar services.

[29] Garcia is a practicing attorney with over 35 years experience in mergers, acquisitions, financing, commercial transactions, business structuring, healthcare law, as well as the representation of clients before regulators.

[30] *See* footnote 10.

[31] We reduce these hours below for excessiveness and deny other hours of Corralejo's which were spent on matters outside the scope of the proceeding, and for time spent on matters conducted after the final decision was issued which had no bearing on substantially contributing to the issuance of the final decision.

[32] *See* footnote 12.

Our reasonableness assessment of the Joint Parties work focuses on these aspects: First, are the hourly rates for the Joint Parties' advocates reasonable comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services. Secondly, did the Joint Parties advocate for any issues which were outside the scope of the proceeding, or which failed to make a substantial contribution to the final decision as required by statute.[33] Lastly, given the scope of the work and the documents that the Joint Parties filed, should the hours be compensated as requested.	
Item	**Adjustments and Disallowances**
#1- Hours spent on the Joint Parties filing of its Motion of Reconsideration of ALJ's Ruling Revising Ruling on July 19, 2010	We disallow all of the hours related to the filing of this document as the Joint Parties' Motion for Reconsideration was denied.[34] **Disallowances: 3.5 hrs Polk, 6.5 hrs Lewis, 7.6 hrs Gnaizda, 1.0 hr Corralejo, 1.0 hr Canty, and .5 hr Bautista**
#2- Hours related to efforts on preparing for En Banc meeting	We allow compensation for Gnaizda (attorney) to attend the En Banc meeting[35] on 10/12/2010. We do not however, allow compensation for preparation for the en banc, or making presentations at the en banc as it was not proceeding specific and would have gone forward regardless of R.09-07-027.[36] **Disallowances: 15.1 hrs Gnaizda, .6 hrs Bautista, .5 hrs Corralejo, and 2.1 hrs Canty**

[33] §1802(1) defines substantial contribution as the customer's presentation that substantially assisted the Commission in making its decision because it has adopted factual and legal contentions, or policy recommendations presented by the intervenor. §1802.5 allows compensation for an intervenor's participation which materially supplements, complements, or contributes to the presentation of another party, provided that the intervenor's own participation makes a substantial contribution to a Commission order or decision. Merely assisting another party to participate effectively does not constitute a substantial contribution by the intervenor, nor does such help seem reasonably necessary to the intervenor's own substantial contribution.

[34] *See* the July 22, 2010 Administrative Law Judge's Ruling on Motions for Reconsideration of Ruling issued on July 15, 2010 And Other Matters at 4.

[35] None of the Joint Parties' advocate's timesheets indicate attendance at the En Banc meeting on 10/12/2010.

[36] Section 11 of GO 156 states that the Commission shall provide an annual report to the Legislature beginning in January 1989, on the progress of activities under taken by each utility to implement Pub. Util. Code §§ 8281 through 8286 and GO 156, as required by § 8283 (e). Section 11.3 of GO 156 states that the Commission shall hold an annual en banc hearing or other proceeding in order to provide Utilities and members of the public, including community-based organizations, the opportunity to share ideas and make recommendations for effectively implementing legislative policy and this general order.

#3- Excessive hour spent preparing for, participation in and follow-up discussions to the May 5, 2010 workshop	The Joint Parties used its attorney, Gnaizda, and all of its advocates (Bautista, Canty, and Corralejo) to prepare for and participate in the 5/5/2010 workshop on underutilized areas and associated follow-up discussions with the Joint Parties. The claim as submitted requests 20.1 hrs of compensation for Gnaizda (attorney), 11.0 hrs of compensation for Bautista (advocate), 10.5 hrs of compensation for Corralejo (advocate), and 7.5 hrs of compensation for Canty (advocate). We find the requested hours to be excessive. We approve a more reasonable amount of time of 6.1 hrs for each participant, and disallow the remaining hours.[37] The adjusted hours more closely reflect our standards on reasonableness of hours. **Disallowances: 14 hrs Gnaizda, 4.9 Bautista, 4.4 hrs Corralejo, and 1.4 hrs Canty**
#4- Excessive hours spent preparing for, participation in and follow-up discussions to the June 7, 2010 workshop	The Joint Parties used its attorney Gnaizda and all of its advocates (Bautista, Canty, and Corralejo) to prepare for and participate in the 6/7/2010 workshop on Barriers to participation. With the exception of Gnaizda's hours, we find the other advocates' hours to be reasonable and compensate them as requested. We disallow 2.6 hrs of Gnaizda's time for these tasks.[38] The adjustment of Gnaizda's time, more closely reflect our standards on reasonableness of hours. **Disallowance: 2.6 hrs Gnaizda**
#5- Excessive hours spent preparing for, participating in and follow-up discussion to the June 23, 2010 oral argument	The Joint Parties used its attorney Gnaizda and all of its advocates (Bautista, Canty, and Corralejo) to prepare and participate in the 6/23/2010 oral argument before the Commission. For these efforts, the Joint Parties request 10.4 hrs for Gnaizda, 9.7 hrs for Bautista, 5.8 hrs for Corralejo, and 5.7 hrs for Canty. Other active participants in this proceeding requested and received an average of 5.35 hrs for this same work. We apply this same allowance of time to all of the Joint Parties' participants and disallow the remainder of these hours. The adjusted hours more closely reflects our standards on reasonableness of hours. **Disallowances: 5.05 hrs Gnaizda, 4.35 hrs Bautista, .45 hrs Corralejo, and .35 hrs Canty** **Based on our consideration of the Joint Parties comments (*See* Part IV), we have restored these hours.**

[37] To consider a more reasonable amount of hours for these tasks, we averaged the number of hours requested and approved by other active intervenors in this proceeding (CAPCC and CHCC) for these same tasks and apply the same allowances to the Joint Parties' participation.

[38] We follow the same assessment we list in footnote 27 to determine a more reasonable amount of time for the Joint Parties' participation on these tasks. We apply an allowance of 12.3 hrs to Gnaizda's efforts in these areas, an average of the amount of time we have compensated the other active intervenors in this proceeding (CAPCC and CHCC). Since the hours for pre-and post-workshop efforts by Bautista, Corralejo, and Canty well below the 12.3 hr average we determine to be reasonable, we make no reductions to the hours of these participants.

#6- Hours spent on the Joint Parties March 25, 2011 Motion to Update the Record	On March 25, 2011, the Joint Parties served a Motion to Update the Record in this proceeding. Due to filing deficiencies, the motion was not accepted for filing until April 7, 2011, albeit with the original submission date. The Motion sought to add information regarding utility achievement in the GO 156 program included in the 2010 annual report submitted to the Commission in March 2011 and information about some utilities' funding for technical assistance programs. The motion was denied. In the April 8, 2011 Administrative Law Judge's Ruling Denying Motion to Update, the ALJ indicated that the proposed decision in this proceeding had been mailed for comment on April 5, 2011 and moreover, the information proposed to be added to the record, would not have aided the Commission in its consideration of the decision in this matter. As such, we deny the Joint Parties' hours related to preparation of this document. **Disallowances: 3.5 hrs Polk, 5.0 hrs Lewis, 6.1 hrs Gnaizda, 1.0 hr Bautista, .6 hrs Corralejo, and .6 hrs Canty**
#7- Excessive time spent on Notice of Name Change	The Joint Parties filed a one page Notice of Change of Name of Party on April 7, 2011 and requests 3 hrs of compensation for the time of its Legal Intern's (Lewis) time and 2 hrs of Paralegal time (Polk) to prepare this document. We approve one hour of paralegal time to prepare this document and disallow the remaining hours as being excessive given the scope of the task. **Disallowances: 3 hrs Lewis and 1 hr Polk**
#8- Time spent advocating for matters outside the scope of the proceeding	In this proceeding, the Joint Parties advocated for issues which were beyond the scope of the proceeding. A list of these topics include: gathering data on large accounting firms and the cable industry, the Federal Communications Commission, federal banking and financial regulations, public officials' compensation and promotion of federal legislation.[39] We have reviewed the Joint Parties' time sheets and estimate the time it spent on these issues to be **86.75 hrs for Gnaizda, 60.2 hrs for Bautista, 22.8 hrs for Canty, and 38.9 for Corralejo.** We disallow these hours from the Joint Parties' request.

[39] *See* the July 22, 2010 Administrative Law Judge's Rulings on Motions for Reconsideration of Ruling Issued on July 15, 2010 and Other Matters at 3.

#9- Excessive time spent on "internal communication"	At the onset of our review, we note that in sharp contrast to the timesheets of other equally active intevenors who filed and received compensation in this proceeding (CHCC and CAPCC),[40] that the Joint Parties' timesheets are loaded with conversations and meetings between Gnaizda and the Joint Parties' advocates (Canty, Bautista, and Corralejo). The frequency of these communications occurred, in many instances, every day. We have analyzed the timesheets[41] for the Joint Parties' participants and find that internal communications represents: 39% or 46.27 hrs of Corralejo's time, 28% or 64.26 hrs of Bautista's time and 64.01 hrs or 39% of Canty's time. We approve a total of 15% for internal communications for each of these participants and disallow the remaining hours.[42] **Disallowances: 39.3 hrs Corralejo, 54.6 hrs Bautista, and 54.4 hrs Canty**
#10- Disallowance of research for law student Aaron Lewis	Aaron Lewis, the Joint Parties' law student, logged 90.25 hrs for "research and fact checks" on behalf of the Joint Parties.[43] In keeping with the disallowances we have listed above for work on issues outside of the scope of the proceeding, we find it appropriate to disallow a similar proportion of Lewis' time spent on researching these matters. Since Lewis' timesheets do not indicate the specific issues he provided research on, we allow 20% of these hours. This is proportionately similar to the reductions we have made to the other participants hours for the same reason. **Disallowance: 18.1 hrs Lewis**
#11- Disallowance of meeting time with Asian American Media	We disallow Bautista's time on 5/13/2010 meeting with the Asian American media. This is a non-compensable lobbying activity.[44] **Disallowances: 1 hr Bautista**
#12- Disallowance of clerical work	We disallow hours of the Joint Parties' clerical time spent on "filing." This work is subsumed into the hourly rates paid to attorneys.[45] **Disallowances: 4.3 hrs Gnaizda, 13 hrs Polk, and 7.5 hrs Lewis**

[40] These awards for compensation were approved at the January 12, 2012 Commission meeting.

[41] Combining multiple tasks in one timesheet entry violates Rule 17.4, as well as the Commission's decisions setting guidelines for intervenor compensation matters (*see*, for example, D.98-04-059, at 51). Where the Joint Parties have recorded multiple tasks in one timesheet entry, we elect to approximate the amount of time spent on each task by dividing the total time by the number of tasks listed. We have not reduced the time for internal communications between Gnaizda and the Joint Parties' paralegal.

[42] We make no disallowances to Gnaizda's time for internal communication as it represents16% of his total time. As the lead attorney, we find his percentage of time spent on internal communications to be reasonable.

[43] Where Lewis has included several work tasks in one timesheet entry, we elect to approximate the time spent on each item by dividing the total hours by the number of tasks listed. We caution the Joint Parties that future claims it may file in other proceedings, should discontinue this practice.

[44] *See* D.98-04-059.

[45] *See* D.11-05-044 and D.11-07-024.

#13- Time spent on matters which had no bearing on making a substantial contribution	The Joint Parties requested a large number of hours for time spent on various matters after the final decision was issued on May 5, 2011. Most typically, we would expect to see only hours for reviewing the final decision (by an attorney and an advocate) and time spent on compensation preparation. We approve two hours of time for the Joint Parties attorney (Gnaizda) and one advocate (Canty) to attend Commission exparte meetings with Commissioners Peevey and Ferron, while the Proposed Decision (PD) was pending. We disallow all other hours as they had no bearing on making a substantial contribution to the final decision. **Disallowances: 55.7 hrs Gnaizda, 25.0 hrs Canty, 39.0 hrs Bautista, and 24.0 hrs Corralejo** **Based on our consideration of the Joint Parties comments (*See* Part IV), we approved an additional 10 hrs of Canty's time.**

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the claim?	No
B. Comment Period: Was the 30-day comment period waived?	No

This is an intervenor compensation matter. As provided in Rule 14.6(c)(6) of our Rules of Practice and Procedure, we normally waive the otherwise applicable 30-day comment period for this proposed decision. Because the Commission is sizably reducing the amount requested in this award, we allowed comments on this proposed decision.

Pursuant to an extension, on April 19, 2012, Joint Parties filed comments on the Proposed Decision which objects to the characterization of Len Canty, Faith Bautista, and Jorge Corralejo (collectively, "representatives), as advocates rather than experts. They also object to the assignment of a compensation rate of $65/hour instead of the $350/hour requested. In addition, the Joint Parties seek compensation for nearly all hours disallowed from their intervenor compensation (IComp) request.

JointParties essentially raise four issues to support their claim these individuals are expert witnesses compensable at $350/hour: (1) their individual backgrounds establish they are diversity experts, (2) the rates are the lowest adopted for any outside expert in the last decade, (3) comparison to activities of a lawyer to non-lawyers is not logical, and (4) the rates indicate the Commission values minority input less than other parties. Based on additional information about their experience, we have revised their rate to $150/hour.

The representatives are more akin to advocates than experts but the revised rate of $150/hour is well within the Commission's accepted rate for either. Joint Parties initially sought advance funding so they could hire "national experts," although the Commission declined to so order in the absence of any authority. In the IComp request, Joint Parties did not fully establish that these individuals had an expert's special knowledge, skill, experience, training, and education that is of the type to be relied upon in an administrative proceeding. They supplemented the record to some extent in the Comments, despite also referring to themselves as "advocates."

Nonehave participated in a Commission proceeding before, and their filings were chronically late and filed with deficiencies, causing the ALJ and the Docket office to expend unnecessary time to accommodate their inexperience (notwithstanding hired counsel). Moreover, the substance of their filed comments was of a general nature and lacked the sort of detail and supporting documentation and analysis one would normally expect from an "expert." In fact, their comments lacked the level of detail and specificity, or the evolution within the proceeding, contained in the comments of other minority business advocates (e.g., CHCC, CAPCC).

Sincethe Joint Parties did not undertake their own comparison of credentials to other Commission-recognized experts, we applied our own comparison to work done by other individuals seeking compensation at rates similar to the $350/hour requested by the representatives. Joint Parties protest any comparison to attorney activities as a measure of their appropriate rate. This misstates the point of our rate discussion. Rates should reflect the qualifications of the individual and the quality and substance of the input provided. Here, it was reasonable to compare the type of activities they performed, primarily document review and discussions with counsel, to the type of independent development of work product indicative of a participant entitled to ratepayer funds of $350/hour.

Therepresentatives claim their expertise is reflected in the filed comments prepared by counsel, but their contributions are not individually evident. The comments reflect summary conclusions about past utility practices and results, and a few unique recommendations, most from the first BEC Comments filed before NAAC and LBCGLA joined the proceeding. They did not produce reports, analyses, research, or even detailed proposals to expand on their initial recommendations. Thus, the comparison served to highlight that the actual work product was more in line with advocacy than "expert" work.

Theclaim that $65 is among the lowest awarded to an advocate or expert witness in a decade is somewhat misleading. Experts and advocates have been awarded a wide range of hourly rates, with many below $100 since 2006.[46] This is apparent from a review of the list of awarded hourly rates posted on the Commission's website. The most recent Commission action sets expert rates between $115 and $390/hour, depending on experience.[47]

[46] E.g., Center for Biological Diversity, Mussey Grade Road Alliance, Surfrider Foundation, Greenlining, Disability Rights Advocates, CHCC, and CAPCC.

[47] Resolution ALJ-267 (March 25, 2011).

The individuals from CHCC and CAPCC have appeared before as advocates in Commission proceedings and been awarded $55-$65 as recently as 2009-2011, and in this proceeding. Although Joint Parties argue that they should not be bound by another group's "failure to ask for a higher rate," it is reasonable to consider our prior award for comparable experience and work.

Weconclude that Joint Parties made a showing in their Comments that the representatives bring more experience with utility supplier diversity programs and minority businesses to their roles than previously demonstrated. Therefore, we adjust their compensation rate to $150/hour. This is equivalent to the rate for experts with 0-6 years experience. It is also similar to the $125/hr rate awarded to Stephanie Chen in 2010, a Greenlining advocate since 2007, before she became an attorney and received an increase to $185/hour. Since Ms. Chen participated in recommendations from Greenlining, a minority advocate, many of which were echoed by the Joint Parties later in the proceeding, this seems a suitable comparison. To the extent Joint Parties tried to offer comparisons to experts from minority groups in other proceedings, it is not as informative as the rates for individuals and parties who contributed to this proceeding.

JointParties also attempt to argue that the percentage disallowance is excessive when compared to other IComp requests, and that because they consist of three groups they should receive more than CHCC and CAPCC combined. These arguments are erroneous because the disallowances are individual and are a function of whether the request was an accurate reflection of hours that provided a "substantial contribution" to the Commission's decision. In the matter of Joint Parties, the claim included excessive requests for ratepayer compensation.

ICompis awarded only for time and effective effort which results in a "substantial contribution" to a Commission decision or order. According to Pub. Util. Code §1802(i), a "substantial contribution" means that "the presentation has substantially assisted the Commission in the making of its order or decision because the order or decision has adopted in whole or part one or more of the factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer."[48] The Commission expanded the definition to include evidence or argument that supports part of the decision, even if the CPUC does not adopt a party's decision in total.[49]

[48] CPUC Intervenor Compensation Program Guide at 11.

[49] D.02-03-033.

The primary problem with Joint Parties' request is their apparent misunderstanding of what is appropriate for ratepayer compensation. Not all activities are compensable. **With two exceptions, we decline to increase the compensable hours requested in Joint Parties' comments on the proposed Decision, as set forth below.**

1. 7.6 hours for counsel, Robert Gnaizda and 12.5 hours for representatives for filing a motion for reconsideration of the ALJ's July 19, 2011 [sic] ruling which was denied. Joint Parties argue that it led to a successful motion to extend the briefing schedule to after the 2011 en banc Commission meeting on GO 156.

   Response: There is no connection to any later rulings regarding post en banc briefing.

2. 15.1 hours of counsel time and 3.2 hours of representative time preparing for the en banc. Joint parties argue their efforts informed the proceeding.

   Response: Joint Parties chose to attend the *en banc*, and they did not point to any new recommendations in the comments filed thereafter as a result of their attendance.

3. 14 hours for counsel and 10.7 hours for representatives preparing for the May 5, 2010 workshop. Joint Parties argue that approximately one day of preparation time is not excessive when they consulted with other groups, did strategic planning, and developed major arguments.

   Response: We approved 6.1 hours for each individual based on an average number of hours requested by, and approved for, other intervenors for these same tasks. This is a productivity issue where one party is unable to complete similar tasks in comparable time to other parties.

4. 2.6 hours for counsel to prepare for June 7, 2010 workshop. Joint parties argue the reduction is arbitrary.

   Response: We allowed 12.3 hours of preparation time for counsel, based on the average amount of time claimed by and authorized for other parties doing the same tasks. Representatives' claims were less than 12.3 hours each so they were fully compensated for their claim.

5. 5.05 hours for counsel and 5.15 hours for representatives to prepare for and follow-up on the June 23, 2010 oral argument on utility targets.

   Response: We authorized 5.35 hours for counsel and each representative based on the average time requested and received by other parties for the same tasks. However, counsel for Joint Parties undertook an additional task at the request of the ALJ to work with counsel for CHCC/CAPCC to try to coordinate responses from non-utility parties to the aspirational interim steps to be presented by the utilities at the oral argument. Therefore, we amend the decision to allow all hours requested.

6. 6.1 hours for counsel and 10.7 hours for representatives to prepare a March 25, 2011 motion to update the record with some data from the utilities' 2010 GO 156 reports, and the amounts SCE and SDG&E spent on technical assistance and capacity building in 2010.

   Response: The motion was filed four months after the last action in the proceeding and less than two weeks before the proposed decision was mailed. The addition of incremental diversity spending by a few utilities, and the amounts spent in 2010 would not have aided the Commission in its decision in this proceeding.

7. 4 hours for employees to prepare a Notice of Name Change for Mabuhay Alliance to National Asian American Association. Joint Parties argue that it took so much time due to satisfying excess demands by the ALJ.

   Response: Joint parties were allowed one hour for the two sentence document because it made a change to the service list after the proposed decision was issued, in order to protect the ability of Joint Parties to complete their participation. Ordinarily this would not be considered a substantial contribution.

8. 86.75 hours for counsel and 121.9 hours for representative work on matters outside the scope of the proceeding. Joint Parties argue this was necessary work to provide a substantial record, including: (1) gathering diversity statistics for CPA firms, law firms, cable companies like Comcast, (2) gathering data to confirm minority banks working with utilities were actually minority-owned, and (3) seeking federal funds for disabled veteran technical assistance. They seek 50% allowance for this item.

   Response: Although Joint Parties claim that this wide-ranging information gathering was to provide "a substantial record," this did not occur. Joint Parties did not provide statistical information or other data aggregated by them on the identified topics. Instead the hours disallowed also related to federal regulation of banks and financial institutions, public officials' compensation, and promotion of federal legislation.

9. 174.54 combined hours spent on internal communications. Joint Parties argue that the reduction is arbitrary, and extensive communications were necessary to achieve consensus with their own organizations. Mr. Canty's efforts resulted in no other "Black opposition or intervention." In addition, these hours were for consulting with other groups, strategizing on next steps in the proceeding, and development of major arguments and issues.

   Response: We allowed 15% (26 hours) for this activity, despite the fact that Joint Parties combined a number of tasks onto the same timesheet in violation of Rule 17.4 which made it difficult to review. First, we note that other African Americans participated by filing comments. Second, it is unclear how these hours provided a substantial contribution to the decision. The comments and

recommendations filed by Joint Parties did not significantly change during the proceeding, and it is unclear where consensus was at risk with many comments similar to those of other parties. The detail of their arguments also did not improve over the course of the proceeding. To the extent the inexperience of the representatives required extra time for discussion, we do not find the claim rises to the statutory requirements for ratepayer compensation.

10. 18.1 hours for counsel's law student for research. Joint Parties argue the reduction is arbitrary and effective research was necessary because "effective research by definition, particularly if thorough, will not always lead to an expected result."

    Response: The IComp request does not provide any detail on what topics the law student was investigating when he spent his time doing "research and fact checks." All hours could have been disallowed solely due to the lack of explanation of what was being researched and how did it provide a substantial contribution to the decision. However, we allowed 20% of the hours because we could infer that comments filed by Joint Parties included data from utility GO 156 reports. The Commission already has the reports. Nonetheless, Joint Parties used some of the data to make its arguments regarding technical assistance for minority disabled veteran-owned businesses, critiques of utility diversity efforts, and targeted programs to underrepresented subgroups.

11. 1 hour for Ms. Bautista to meet with the Asian American media. Joint Parties argue that Ms. Bautista was ensuring that "all major sub-ethnic groups" were informed of the proceeding.

    Response: No Vietnamese Americans, Korean Americans, Hmong Americans or other "subgroups" participated in the proceeding. Joint Parties did not establish that this activity resulted in a substantial contribution to the decision, and there is no evidence that a change in position or recommendations occurred due to this activity.

12. 4.3 hours for counsel and 20.5 hours by support staff for "filing." Joint Parties argue they should be compensated because 'filing issues are not so simple."

    Response: Pursuant to cited prior Commission decisions, we do not provide ratepayer compensation for clerical work which is subsumed in the attorney's hourly rate. No benefit to the ratepayers, nor is any substantial contribution shown, by compensation for the learning curve of counsel's staff. Counsel has many years of experience participating at the Commission and is paid at the top rate available. No additional compensation is appropriate.

13. Unspecified number of hours for Len Canty who asserts he "led the African American community in initiating and developing the outline for this OIR," and secured a legal opinion that the OIR would not violate Proposition 209.

    Response: Joint Parties did not quantify this request and the OIR was drafted by Commission employees. However, upon consideration, we agree that Mr. Canty was instrumental in persuading the Commission to initiate the OIR. Therefore, we award an additional 10 hours to Mr. Canty for this substantial contribution.

Lastly, we address the attachment to Joint Parties' Comments of a letter from TURN to the assigned Commissioner. TURN was not a party to the proceeding but offered its views, integrated by Joint Parties, that it was inappropriate to award the representatives a rate of $65/hour. TURN asserts that such a rate is so low that it signals the Commission does not adequately value the contributions of minority advocates.[50] Although TURN's letter contains no analysis of the work product, its concerns are now moot because we have modified the hourly rates of the Joint Parties' advocates. Moreover, the Commission invited input from numerous minority organizations in this proceeding, and has awarded hundreds of thousands of ratepayer dollars to such organizations for their substantial contributions to the final decision.

FINDINGS OF FACT

1. The Joint Parties have made a substantial contribution to D.11-05-019.

2. The claimed fees, 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 $318,361.75.

CONCLUSION OF LAW

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

[50] We strenuously disagree with TURN's suggestion. The proceeding itself is a testament to the Commissions' ongoing and engaged commitment to diversity in utility procurement. We have authorized more than half a million dollars in ratepayer compensation to five different minority groups for their contributions, even without any evidentiary hearings. Moreover, we adopted numerous recommendations that came out of the record created, including expanded reporting and audits.

ORDER

1. The Joint Parties are awarded $318,361.75.

2. Within 30 days of the effective date of this decision, The CPUC's Intervenor Compensation Fund shall pay National Asian American Coalition the total award. The recipient will then distribute the award to the parties. 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 September 14, 2011, 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 not waived.

4. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX

Compensation Decision Summary Information

Compensation Decision:		**Modifies Decision?** No
Contribution to Decision:	D1105019	
Proceeding:	R0907027	
Author:	Commissioner Michael R. Peevey	
Payee:	The CPUC's Intervenor Compensation Fund	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Black Economic Council (BEC), the Latino Business Chamber of Greater Los Angeles (LBCGLA), and the National Asian American Coalition (NAAC), filing as "Joint Parties"	7/1/2011	$601,001.00	$318,361.75	No	adjusted hourly rates, lack of substantial contribution, work on issues and research outside the scope of the proceeding, excessive hours for internal communication and, and the disallowance for motions which were denied

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Robert	Gnaizda	Attorney	Counsel for BEC, LBCGLA, and NAAC, filing as "Joint Parties"	$535	2009-2011	$535
Lee	Canty	Expert	BEC	$350	2009-2011	$150
Faith	Bautista	Expert	NAAC	$350	2009-2011	$150
Jorge	Corralejo	Expert	LBCGLA	$350	2009-2011	$150
Aaron	Lewis	Legal Intern	Joint Parties	$ 90	2010-2011	$ 90
Dyana	Polk	Paralegal	Joint Parties	$ 80	2009-2011	$ 80

(END OF APPENDIX)