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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Concerning
Relationship Between California Energy
Utilities And Their Holding Companies And
Non-Regulated Affiliates.

Rulemaking 05-10-030
(Filed October 27, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING NOTICE OF INTENT TO CLAIM COMPENSATION**

1. Summary

Following review of the Notice of Intent (NOI) filed by the Greenlining Institute (Greenlining), and in consultation with Assigned Commissioner Geoffrey F. Brown, this ruling makes a preliminary finding that Greenlining is eligible to request intervenor compensation in this rulemaking. No opposition has been filed.

2. Background – Standards for NOI Review

Under Pub. Util. Code § 1804(a)(1), “[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference (PHC) is held, file and serve on all parties to the proceeding a notice of intent to claim compensation.” Section 1804(a)(2) sets forth the information that a NOI must include.

Pursuant to Decision (D.) 98-04-059, the preliminary ruling on eligibility must determine whether the intervenor is a customer, as defined in § 1802(b). The intervenor may qualify as a customer in one of three ways: as a participant representing consumers [§ 1802(b)(1)(A)]; a representative authorized by a

customer [§ 1802(b)(1)(B)]; or a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential customers [§ 1802(b)(1)(C)]. Participation in Commission proceedings by parties representing the full range of affected interests is important and assists the Commission in ensuring that the record is fully developed and that each customer group receives adequate representation.

Section 1804(a)(2)(B) provides that only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1802(g) defines “significant financial hardship” to mean “either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.”

If the intervenor includes a financial hardship showing in the NOI, rather than deferring it to the request, the preliminary ruling shall address the showing. Section 1804(b)(1) provides that “[a] finding of significant financial hardship shall create a rebuttable presumption of eligibility for compensation in other Commission proceedings commencing within one year of the date of that finding.”

In addition to the required assessment of eligibility, the preliminary ruling may address other issues raised by the NOI, such as nature and cost of planned participation.

3. Discussion

3.1 Eligibility

Greenlining filed its NOI on August 7, 2006, a little over a month after the Commission mailed D.06-06-062, which amends the earlier Order Instituting Rulemaking. D.06-06-062 revises the schedule for this proceeding but does not set a PHC or a date for the filing of NOIs. Greenlining has acted reasonably promptly to file the NOI; the filing is timely.

Greenlining is nonprofit corporation organized under the laws of the State of California and is authorized by its bylaws to represent the interests of low income communities, minorities and residential ratepayers in proceedings before this Commission and other state and federal agencies.¹ Greenlining states that all of its members and constituents are purchasers of energy services from utilities in California. By ruling on March 7, 2006, Administrative Law Judge (ALJ) Timothy Kenney made a finding of significant hardship in connection with Greenlining's participation in Application 05-12-002, the 2007 general rate case for Pacific Gas and Electric Company. Because Greenlining filed this NOI several months later – well within a year of the eligibility finding – a rebuttable presumption exists that Greenlining should be found eligible here. Greenlining's NOI is unopposed.

Review of the NOI indicates that Greenlining's organizational form, the composition of its membership, and the costs to its membership of participation

¹ Greenlining attaches a copy of its bylaws, marked "amended February 3, 2006." By email to the assigned ALJ on September 5, 2006, Greenlining advises that February 3, 2006 is the date the bylaws appended to the NOI were typed and that the appended document, including amendments adopted on July 31, 1998, April 7, 2000, October 21, 2001 and November 5, 2005, is a complete copy of the current bylaws.

in a Commission proceeding have not changed in the past several months. Greenlining's bylaws qualify it as a customer under § 1802(b)(1)(C). Greenlining need not attach a copy of its bylaws to future NOIs unless it adds, amends or deletes any terms which might affect an eligibility finding. However, any future NOI shall include the informational cross-references necessary to locate the bylaws on file with the Commission (i.e., proceeding name and number, date NOI filed).

Likewise, the financial hardship to Greenlining's membership does not appear to have changed in the last several months. The NOI states that "Greenlining's Coalition members are residential and small business customers whose individual interests in this proceeding are small relative to the costs of participation" and that "[i]t is unlikely that Greenlining's members will see financial benefits that exceed Greenlining's costs of intervention." (NOI, unnumbered pp. 4-5.) Absent changed circumstances, the significant hardship finding continues to apply to Greenlining. Accordingly, Greenlining is eligible to apply for intervenor compensation in this rulemaking. However, a finding of significant financial hardship in no way ensures compensation. (§ 1804(b)(2).)

3.2 Other Issues

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. While the NOI states that Greenlining's plans have not been fully formulated, Greenlining indicates that it intends to:

- evaluate and suggest improvements to the General Order 77-L reporting scheme;
- comment on the public service obligations of Respondent utilities to their customers;

- comment on the impact of Respondents' executive compensation on the overall utility costs borne by low-income and minority ratepayers; and
- seek to represent small minority business generally.

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. Greenlining estimates a total, projected budget of \$97,250, based on the time it anticipates its attorneys, expert witness, and paralegals are likely to expend and on travel and other associated costs of participation.

I note that Greenlining's estimated budget is more than double that of the other public interest intervenor in this proceeding. I recognize that these two parties largely focus on different issues and that an estimated budget is only that – an estimate. Nevertheless, Greenlining will need to monitor its participation to ensure that its efforts remain within the scope of this proceeding as it evolves and that its costs are limited to those which properly should be charged to ratepayers under the intervenor compensation program. To the extent that other parties advance common issues, Greenlining should seek to affirmatively and cooperatively coordinate its efforts to prevent unnecessary duplication of effort.

Therefore, **IT IS RULED** that:

1. The Greenlining Institute is a customer as that term is defined in § 1802(b)(1)(C) and has met the eligibility requirements of § 1804(a), including the requirement that it establish significant financial hardship. Greenlining is found eligible for compensation in this rulemaking.

2. Greenlining need not attach a copy of its bylaws to future NOIs unless it amends, adds, or deletes any terms which might affect an eligibility finding. However, any future NOI shall include informational the cross-references

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I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a copy of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the copy of the filed document is current as of today's date.

Dated September 12, 2006, at San Francisco, California.

/s/ ELVIRA NIZ

Elvira Niz

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