

Decision \_\_\_\_\_

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

Application of SOUTHERN CALIFORNIA GAS COMPANY for authority to update its gas revenue requirement and base rates. (U 904 G)

Application 02-12-027  
(Filed December 20, 2002)

Application of SAN DIEGO GAS & ELECTRIC COMPANY for authority to update its gas and electric revenue requirement and base rates. (U 902-M)

Application 02-12-028  
(Filed December 20, 2002)

Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Service and Facilities of Southern California Gas Company and San Diego Gas & Electric Company.

Investigation 03-03-016  
(Filed March 13, 2003)

**OPINION GRANTING INTERVENOR COMPENSATION  
TO THE GREENLINING INSTITUTE FOR  
SUBSTANTIAL CONTRIBUTIONS TO DECISION 04-12-015**

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**OPINION GRANTING INTERVENOR COMPENSATION  
TO THE GREENLINING INSTITUTE FOR  
SUBSTANTIAL CONTRIBUTIONS TO DECISION 04-12-015**

**1. Summary**

This decision awards the Greenlining Institute (Greenlining) \$23,368.83 in compensation for its substantial contribution to Decision (D.) 04-12-015. This award is \$30,188.50 less than the amount requested.

**2. Background**

In D.04-12-015 the Commission adopted base electric and gas revenue requirements for Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) in the consolidated applications for Test Year 2004 Cost of Service. The critical issue in these proceedings was to ensure that both companies receive a reasonable level of revenue for monopoly distribution services. SoCalGas filed Application (A.) 02-12-027 and SDG&E filed A.02-12-028 on December 20, 2002, respectively, for authority to update their gas and electric revenue requirements and base rates. SoCalGas requested an approximate \$130 million increase in natural gas distribution revenues for Test Year 2004 and SDG&E requested an approximate \$58.9 million increase in electric distribution revenues<sup>1</sup> and \$21.6 million increase in natural gas distribution revenues for Test Year 2004. In adopting a settlement agreement, with modifications, the Commission authorized \$1.457 billion in natural gas distribution revenues for Test Year 2004 for SoCalGas. The Commission authorized SDG&E

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<sup>1</sup> This included the effects of nuclear costs after the termination of the Incremental Cost Incentive Plan (ICIP).

\$754.763 million in electric distribution revenues and \$204.721 million in natural gas distribution revenues for Test Year 2004.

These applications were not filed in conformance with the Commission's rate case processing plan. There were in conformance with specific exemptions granted as a part of previously adopted incentive ratemaking mechanisms. Prehearing conferences (PHCs) were held on February 19, 2003, March 7, 2003, and September 26, 2003. Public participation hearings were held in August and September 2003, in SoCalGas' service territory in Van Nuys, El Monte, Carson, and San Bernardino, and in SDG&E's service territory in San Diego and San Clemente. Twenty days of evidentiary hearings on Phase One distribution service revenue requirements were held, beginning October 7, 2003. Testimony was received in the evidentiary hearings from numerous witnesses, and over 300 exhibits were received in evidence.<sup>2</sup> D.03-12-057 granted interim rate relief to SoCalGas and SDG&E<sup>3</sup> by establishing memorandum accounts to track any eventual difference in current rates and any increase or decrease adopted by this decision for Test Year 2004.

Settling parties filed opening briefs on January 20, 2004. On February 4, 2004, non-settling parties filed opening briefs, and all parties filed reply briefs on February 19, 2004. Greenlining signed a separate side-settlement

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<sup>2</sup> Without separately counting errata, SoCalGas and SDG&E sponsored 150 exhibits of direct and rebuttal testimony; Office of Ratepayer Advocates (ORA), 33 direct and cross-examination exhibits; The Utility Reform Network (TURN), 60 direct and cross-examination exhibits and UCAN, 47 direct and cross-examination exhibits.

<sup>3</sup> On April 18, 2003, SoCalGas and SDG&E filed a Motion seeking reconsideration of the April 2, 2003 Scoping Memo. The May 22, 2003 Ruling clarified the Scoping memo as appropriate, and D.03-12-057 was necessary to grant the interim relief request.

agreement to both the SDG&E Settlement and the SoCalGas Settlement, and filed its support of both on January 20, 2004.

### **3. Requirements for Awards of Compensation**

The intervenor compensation program, enacted in Pub. Util. Code §§ 1801-1812, requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation if the intervenor makes a substantial contribution to the Commission's proceedings. The statute provides that the utility may adjust its rates to collect the amount awarded from its ratepayers. (Subsequent statutory references are to the Public Utilities Code unless otherwise indicated.)

All of the following procedures and criteria must be satisfied for an intervenor to obtain a compensation award:

1. The intervenor must satisfy certain procedural requirements including the filing of a sufficient notice of intent (NOI) to claim compensation within 30 days of the prehearing conference (or in special circumstances, at other appropriate times that we specify). (§ 1804(a).)
2. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)
3. The intervenor should file and serve a request for a compensation award within 60 days of our final order or decision in a hearing or proceeding. (§ 1804(c).)
4. The intervenor must demonstrate "significant financial hardship." (§§ 1802(g), 1804(b)(1).)
5. The intervenor's presentation must have made a "substantial contribution" to the proceeding, through the adoption, in whole or in part, of the intervenor's contention or recommendations by a Commission order or decision. (§§ 1801(1), 1803(a).)

6. The claimed fees and costs are reasonable and are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services. (§ 1806.)

For discussion here, the procedural issues in Items 1-4 above are combined, followed by separate discussions on Items 5 and 6.

#### **4. Procedural Issues**

The first prehearing conference in this matter was held on February 19, 2003. Greenlining had already filed its NOI on February 3, 2003.

On February 20, 2003, Administrative Law Judge (ALJ) Long ruled that Greenlining is a customer under the Public Utilities Code and meets the financial hardship condition. Greenlining filed its request for compensation on January 28, 2005, within 60 days of D.04-12-015. No party opposes this request.

Greenlining has satisfied all the procedural requirements necessary to make its request for compensation.

#### **5. Substantial Contribution**

In evaluating whether a customer made a substantial contribution to a proceeding we look at several things. First, did the ALJ or Commission adopt one or more of the factual or legal contentions, or specific policy or procedural recommendations put forward by the customer? (*See* § 1802(i).) Second, if the customer's contentions or recommendations paralleled those of another party, did the customer's participation materially supplement, complement, or contribute to the presentation of the other party or to the development of a fuller record that assisted the Commission in making its decision? (*See* §§ 1802(i) and 1802.5.) As described in § 1802(i), the assessment of whether the customer made a substantial contribution requires the exercise of judgment.

In assessing whether the customer meets this standard, the Commission typically reviews the record, composed in part of

pleadings of the customer and, in litigated matters, the hearing transcripts, and compares it to the findings, conclusions, and orders in the decision to which the customer asserts it contributed. It is then a matter of judgment as to whether the customer's presentation substantially assisted the Commission. (D.98-04-059, 79 CPUC2d, 628 at 653.)

Should the Commission not adopt any of the customer's recommendations, compensation may be awarded if, in the judgment of the Commission, the customer's participation substantially contributed to the decision or order. With this guidance in mind, we turn to the claimed contributions Greenlining made to the proceeding.

Greenlining asserts that it made significant contributions on workforce and supplier diversity, philanthropy, and executive compensation. Greenlining claims the work on diversity and philanthropy to be "substantial, as it enabled Greenlining to fully participate in the proceeding, which facilitated settlement with Sempra and benefited the Commission, thereby making full compensation appropriate. (*See* Aglet Decision, D. 04-08-025.)"<sup>4</sup> Thus, Greenlining tries to link its work on diversity and philanthropy with its claim for contribution to the Commission's review of executive compensation for SoCalGas and SDG&E. We discuss this attempted linkage below.

#### **A. Rulings Limiting Issues**

Several separate rulings rejected Greenlining's proposals to pursue issues beyond the scope of these proceedings. In the Scoping Memo<sup>5</sup> the

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<sup>4</sup> Request, pp 2 - 3.

<sup>5</sup> Assigned Commissioner's Ruling Establishing Scope, Schedule, and Procedures for Proceeding, dated April 2, 2003.

Assigned Commissioner rejected Greenlining's proposal to include supplier diversity in the scope of the proceeding:

All matters within the scope<sup>6</sup> of (Rulemaking) R.03-03-035 are excluded from the scope of these consolidated proceedings. Any other WMDVBE (Women, Minority, Disabled Veteran Business Enterprises) issues beyond the scope of (Rulemaking) R.03-02-035 may be pursued to the extent they are relevant to the 2004 test year revenue requirement.

Thus, Greenlining was on notice that any issue within R.03-02-035 was beyond the scope of this proceeding and therefore ineligible for compensation.

Furthermore, the assigned ALJ, on June 18, 2003, denied a Greenlining motion regarding utility philanthropy, ruling that issue beyond the scope of this proceeding.

The assigned Commissioner did grant in part Greenlining's proposal to include executive compensation reporting:<sup>7</sup>

At this time there is no separate proceeding, so parties may address G.O. 77-K (compensation reporting) related issues to the extent they are relevant to the 2004 test year revenue requirement. (Emphasis added.)

As noted by Greenlining, R.03-08-019<sup>8</sup> was subsequently opened to address changes to that General Order; thus, Greenlining had a forum for its broader

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<sup>6</sup> The order instituting R.03-02-035 set forth the scope as follows: "By this order, we grant the Petition of the Greenlining Institute and Latino Issues Forum (Greenlining/LIF) to institute a rulemaking to amend General Order (G.O.) 156. We institute this rulemaking to eliminate the exclusions currently permitted under G.O. 156, and to refine certain aspects of G.O. 156 verification and reporting." (R.03-02-035, dated February 27, 2003, *mimeo*, p. 1.) (Footnote 3 in Scoping Memo, p. 6.)

<sup>7</sup> Scoping Memo, p. 7.

concerns and was limited here to issues related to the adoption of a Test Year 2004 revenue requirement. Greenlining therefore stretches when it claims in the compensation request that:

Greenlining's work in [R.03-08-019] (including increasing transparency in executive compensation reporting) – combined with our work toward reaching a settlement agreement with Sempra here – eliminated the need for executive compensation recommendations in this proceeding.<sup>9</sup>

As discussed below, Greenlining in fact sponsored testimony containing recommendations with respect to executive compensation that were outside the scope of the proceeding.

The assigned Commissioner also required testimony from the utility applicants regarding workforce diversity:<sup>10</sup>

Consistent with the February 13, 2003, Scoping Memo for A.02-11-017, (a general rate case for Southern California Edison Company) SoCalGas and SDG&E should serve supplemental testimony regarding its workforce diversity over the last 10 years, as well as present and future plans regarding workforce diversity.

Thus, information about workforce diversity was found to be within the scope of this proceeding.

In short, the assigned Commissioner and ALJ gave careful, explicit guidance on the issues that would, and would not, be considered in this proceeding. Greenlining's attempt to link its work on excluded issues with its

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<sup>8</sup> R.03-08-019, dated August 21, 2003, Order Instituting Rulemaking on the Commission's Own Motion to Amend G.O. 77-K.

<sup>9</sup> Request, pp. 3-4.

work on included issues is troubling for many reasons. The attempt inherently subverts the statutory scoping process (*see* § 1701.1.(b), and Rule 6.3). We suspect also that many parties besides Greenlining would like to litigate their favored issues when and as they prefer but feel constrained not to do so depending on how we scope particular proceedings. These parties could rightly object to the unfairness of allowing an excluded issue into a proceeding by the backdoor of “linkage.” Consequently, we reject the notion that all of Greenlining’s work in this proceeding may or must be analyzed as if it were indissolubly linked.

### **B. Greenlining’s Side Agreements**

Greenlining’s asserted contributions on workforce and supplier diversity, and on philanthropy, as noted, were combined in its request for compensation, but we will examine each in turn. Specifically, Greenlining entered into two side agreements, which were only between Greenlining and each utility, and were attachments to the overall test year revenue requirement settlement agreements between the utilities and all active parties except the Utility Consumers’ Action Network (UCAN).<sup>11</sup> The Greenlining side agreements addressed non-revenue requirement issues including workforce diversity, supplier diversity, and philanthropy. The side agreements contain no

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<sup>10</sup> Scoping Memo, p. 7.

<sup>11</sup> Settlement Agreement between the Greenlining Institute and SoCalGas and SDG&E. Included as Attachment C to both the SoCalGas and SDG&E settlements of Test Year 2004 revenue requirements, and included as Attachment I to D.04-12-015. The agreements refer to SoCalGas and SDG&E collectively as “the utilities.” The agreements appear to intend to also include Sempra, their parent company. Certain provisions involve Sempra, not just SoCalGas and SDG&E employees. (*See* Agreement, p. 2, Attachment I to D. 04-10-015.)

commitment regarding executive compensation. They include the following terms as summarized by Greenlining in its compensation request:

- Sempra will annually provide Greenlining with **workforce diversity** data, and make its best good faith effort to be in the top ten “Best Companies for Minorities” as measured by *Fortune Magazine* and to be a leader among California Utilities;
- Sempra will meet with Greenlining regarding continued compliance with G.O. 156<sup>12</sup> and achieving 25% **supplier diversity** levels at SoCalGas and SDG&E;
- Sempra will provide Greenlining with a detailed reporting of its **philanthropy**, while improving its philanthropic stewardship in its communities and its outreach efforts to low income and underserved communities; and
- Sempra top officials will meet annually with Greenlining to discuss issues of workforce diversity, supplier diversity, and philanthropy. (Request, p.3, emphasis in original.)

As explained earlier, the side agreements include several terms related to issues expressly excluded from this proceeding. To determine the extent to which the agreements contributed to D.04-12-015, we address each of the terms separately in the following sections.

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<sup>12</sup> General Order 156: Rules Governing the Development of Programs to Increase Participation of Women, Minority and Disabled Veteran Business Enterprises in Procurement of Contracts from Utilities as Required by Pub. Util. Code §§ 8282 – 8286.

### C. Philanthropy

In D. 04-12-015, mimeo, pp.43-46 (footnotes omitted), the Commission briefly discussed and rejected Greenlining's recommendations on philanthropy:

Greenlining proposed in testimony that SoCalGas and SDG&E should be ordered by the Commission to make philanthropic contributions equal to either the compensation of the "top ten executives" or 2% of pre-tax earnings, and further, 80% of the contributions should be "allocated to the needy." Under the Settlement Agreement, the Utilities reaffirm their commitment to improve upon their outreach efforts to racial and ethnic minority groups, including low income and underserved communities and to improve upon philanthropic stewardship within each utilities' communities. Additionally, Sempra agrees to provide Greenlining with a detailed reporting of philanthropy with a description of each relevant organization and the total charitable contribution amounts.

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In D.04-07-022, SCE's GRC, with respect to philanthropy, we acknowledged that the Commission has no jurisdiction to order changes to a utilities' giving practices and found philanthropy generally to be beyond the scope of the Commission's ratemaking authority. We affirm the determinations made in the Edison GRC again here.

Thus, in light of the Scoping Memo and other rulings, as well as the refusal in D.04-12-015 to consider Greenlining's recommendations on philanthropy, we find these recommendations made no substantial contribution to D.04-12-015, and we reject that part of Greenlining's compensation request as it relates to these recommendations.

#### **D. Workforce Diversity**

Greenlining has consistently urged the Commission to ensure that the jurisdictional utilities employ a diverse workforce reflecting the population of the service territory. In the side agreements SoCalGas and SDG&E agree to make "very best good faith efforts" to be national leaders in diversity as measured by Fortune Magazine's annual diversity survey. This is a laudable goal, and by making this public commitment we have no doubt that SoCalGas and SDG&E will endeavor to be corporate leaders and role models. Further, the efforts by Greenlining on workforce diversity were within the scope of the proceeding. We therefore find that Greenlining made a significant contribution to D.04-12-015 on this issue.

#### **E. Supplier Diversity**

Greenlining has consistently urged the Commission to ensure that the jurisdictional utilities deal with a diverse range of suppliers of goods and services. In the side agreements, SoCalGas and SDG&E committed "to good faith efforts to being national leaders among all utility companies." Again, this is a laudable commitment, but it is not one that relates to an issue within the scope of this proceeding.

As noted earlier, Greenlining was directed not to duplicate any work that was within the scope of R.03-02-035, which concerns supplier diversity and was itself the result of a petition filed by Greenlining asking the Commission to

modify G.O. 156. A commitment to be national leaders does not go beyond the scope of G.O. 156 or what Greenlining could advocate in the rulemaking. Thus, the side agreements, to the extent they concern supplier diversity, are not within the scope of this proceeding, and Greenlining's work on this issue did not contribute to D.04-12-015.

#### **F. Executive Compensation**

The primary purpose of this proceeding was to determine the test year revenue requirements for SoCalGas and SDG&E. Adopting a reasonable compensation package for SoCalGas and SDG&E employees and management was within the scope of determining revenue requirement. There was no testimony by Greenlining, however, on the correct determination of the reasonable salary levels for inclusion in retail rates. Greenlining's Phillips testimony<sup>13</sup> attempted to introduce allegations of compensation abuses involving other major corporations. It was irrelevant to the adopted ratemaking settlement and thus had no influence on the adopted test year estimates of executive compensation.

Greenlining also tried to link workforce diversity and corporate philanthropic giving to executive compensation. *See* the Gamboa testimony that proposed SoCalGas and SDG&E "should tie the bonuses of the top ten officers and those responsible for promotion of underserved minorities into executive and management positions to their achievements in this area."<sup>14</sup> This witness also testified "at a minimum, Greenlining urges that an amount equal or greater than two percent of each company's pre-tax profits be allocated to philanthropy

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<sup>13</sup> Ex. 901.

<sup>14</sup> Ex. 900, p.7.

and at least 80% of this be allocated to the needy.” The witness then testified there was no “moral basis” for the levels of compensation paid to SoCalGas and SDG&E executives.<sup>15</sup>

Greenlining acknowledges “there were no executive compensation recommendations and no terms with respect to executive compensation included in the settlement agreement.”<sup>16</sup> The closest Greenlining came to offering anything relevant to executive compensation as it bears on determining revenue requirement was the Gamboa testimony, but that testimony (1) said nothing about what a utility might reasonably expect to pay to attract qualified personnel, and (2) was not embodied in any term of the side agreements.

We will not consider any contribution in R.03-08-019 (the G.O. 77 rulemaking) to justify a finding that Greenlining’s executive compensation testimony made a substantial contribution in this proceeding. Additionally, Greenlining was informed as early as the Scoping Memo in April 2003 that its proposals were beyond the scope of this proceeding. We therefore reject Greenlining’s compensation request as it relates to executive compensation.

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<sup>15</sup> Ex. 900, pp. 11-12.

<sup>16</sup> Request, p. 4.

## 6. Reasonableness of Requested Compensation

Greenlining requests \$53,557.33 for its participation in this proceeding.

Included in the request<sup>17</sup> was the following breakdown:

<b>Request Summary</b>	
Greenlining Staff	\$49,395.50
Consultants	3,800.00
Subtotal	\$53,195.50
Copying	297.70
Postage	59.13
Travel	5.00
<b>Total Request</b>	<b>\$53,557.33</b>

The components of this request must constitute reasonable fees and costs of the customer's preparation for and participation in a proceeding that resulted in a substantial contribution. Thus, only those fees and costs associated with the customer's work that the Commission concludes made a substantial contribution are reasonable and eligible for compensation.

As noted, we will not compensate Greenlining for its claimed contributions for supplier diversity, philanthropy, or executive compensation. We will compensate Greenlining for its contributions to workforce diversity and for its time on general preparation for the proceeding.

Greenlining provided time records tracking hours to specific activities but it did not identify those activities with its specific issues of supplier and workforce diversity, philanthropy or executive compensation. We have only percentage allocations of time to the four issue areas and to general preparation or participation. Therefore we will compensate Greenlining for the hours it claimed (at the appropriate rates) for workforce diversity. Additionally,

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<sup>17</sup> Request, p. 8, and Attachment D.

Greenlining indicated that its two counsel, Gnaizda and Berrío, spent 15% and 25% of their time, respectively, on general participation, and Berrío was Greenlining's primary appearance in the evidentiary hearings. We find the hours for Greenlining's general preparation and participation to be reasonable given its level of involvement. These hours encompass Greenlining's side agreements with SoCalGas and SDG&E.

We must assess whether the rates and hours claimed for the customer's substantial contributions to the decision are reasonable. We will address the rates first, and then, as necessary, adjust the hours allocated to each issue.

<b>Rates as Requested by Greenlining</b>			
<b>Name</b>	<b>Year</b>	<b>Rate</b>	<b>Cites in Request</b>
Robert Gnaizda	2003	\$450	D.04-08-025
	2004	\$495	(b)
Itzel Berrío (a)	2003	\$290	(b)
	2004	\$310	
	2005	\$330	
Noelle Abastillas	2003	\$95	(c)
	2004	\$110	
John C. Gamboa	2003	\$350	(b)
Michael Phillips	2003	\$360	(b)
(a) Hours for compensation request and NOI preparation were charged at 50% of the requested rates for 2003, 2004, and 2005.			
(b) Requests rates contrary to existing authorized rates.			
(c) No previously authorized rate.			

Greenlining documented its claimed hours by presenting a daily breakdown of the hours of its attorneys and analysts, accompanied by a brief caption of each activity. The detailed records of the hours Greenlining spent on the proceeding describe the activity without reference to specific issues. Therefore, the hourly breakdown does not reasonably support the claim for total hours. We note that Greenlining did not break down its efforts by issue except in

rough percentages contained in a footnote.<sup>18</sup> Because we must eliminate hours associated with certain issues from the award, a more thorough breakdown by issue would have facilitated the process.

In determining compensation, we take into consideration the market rates for similar services from comparably qualified persons. Several of the experts and attorneys for Greenlining have existing rates approved by the Commission for work performed in 2003 and 2004. We use those existing rates without further discussion, and adjust the request by Greenlining where it requests higher than authorized rates. Greenlining offers no acceptable justifications to change from adopted rates for 2003; it only argues that it believes it deserves higher rates. The same flaw invalidates the 2004 and 2005 requests to the extent that they are based on inappropriate changes to authorized 2003 rates.

Greenlining asked for a higher rate for Phillips' testimony on executive compensation than he was awarded previously. The proffered explanation does not show any specific qualifications or expertise possessed by Phillips in determining or analyzing employee and executive compensation. In fact, Greenlining did not offer testimony on the appropriate levels of compensation for SoCalGas and SDG&E executives. This assertion of Phillips' compensation expertise as justifying a higher rate is therefore rejected. The current rate for Phillips was authorized for prior testimony on environmental matters.<sup>19</sup> We will continue to use the authorized 2003 rate, which is \$310 per hour.

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<sup>18</sup> Greenlining separated the hours associated with travel and preparation of this compensation request and requests compensation at half the usual hourly rate for this time. It otherwise provided a rough percentage allocation that only allows us to broadly allocate labor between specific issues and general litigation.

<sup>19</sup> Request, p. 12.

We calculated, as necessary, new 2004 rates by escalating authorized rates for 2003 by 8%, as provided in Resolution ALJ-184 (August 19, 2004). There is only one minor amount of time in 2005 for Berrío's work to prepare the request for compensation, to be compensated at 50% of the professional rate. We will adopt another 8% increase for this decision only, without setting a precedent for Berrío's work as an attorney in 2005.

There are no prior rates for Abastillas. We find the request of \$95 and \$110 for 2003 and 2004 to be within the range we allow for support staff work, and for less than 2 hours in total, these rates are reasonable without further justification.

<b>Adopted Compensation Rates</b>			
<b>Name</b>	<b>Year</b>	<b>Rate</b>	<b>Cite</b>
Gnaizda	2003	\$450	D.04-08-025
	2004	\$490	D.05-06-031
Berrío	2003	\$275	D.04-08-025
50%	2003	\$140	
	2004	\$300	D.04-10-033
50%	2004	\$150	
	2005	\$325	ALJ-184
50%	2005	\$160	
Abastillas	2003	\$95	
	2004	\$110	
Gamboa	2003	\$330	D.04-08-025
Phillips	2003	\$310	D.04-08-025

To assist us in determining the reasonableness of the requested compensation, D.98-04-059 directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. The costs of a customer's participation should bear a reasonable relationship to the benefits realized through their participation. There are no

readily quantifiable benefits attributable to workforce diversity, however, both utilities and society as a whole gain from enlarging the qualified talent pool in the workforce. We find Greenlining's participation, to the extent of its substantial contribution regarding workforce diversity, was productive.

Using Greenlining's assertion of the percentage of time for each subject area, and adjusted to the correct rates, the request is allocated as follows:

<b>Greenlining's Adjusted Costs by Category – Using Adopted Rates</b>					
	<b>Philanthropy</b>	<b>Executive Comp.</b>	<b>Supplier Diversity</b>	<b>Workforce Diversity</b>	<b>General</b>
Gnaizda <sup>20</sup> - 2003	\$3,069	\$3,836	\$3,069	\$3,069	\$2,302
2004	911	1,139	911	911	684
Berrío <sup>21</sup> - 2003	3,361	2,520	3,361	3,361	4,201
2004	1,764	1,323	1,764	1,764	2,205
2005	0	0	0	0	0
50% rate 2003					140
2004					150
2005					2,080
Abastillas - 2003					114
2004					55
Gamboa - 2003					1,716
Phillips <sup>22</sup> - 2003		1,449			256
<b>Total</b>	<b>\$9,105</b>	<b>\$10,268</b>	<b>\$9,105</b>	<b>\$9,105</b>	<b>\$13,902</b>

<sup>20</sup> Gnaizda's time was allocated: philanthropy – 20%, executive compensation 25%, supplier diversity – 20%, workforce diversity – 20%, general/multiple issues – 15%. *See Request, p. 9, fn. 2.*

<sup>21</sup> Berrío's time was allocated: philanthropy – 20%, executive compensation 15%, supplier diversity – 20%, workforce diversity – 20%, general/multiple issues – 25%. *See Request, p. 9, fn. 3.*

<sup>22</sup> Phillips' time was allocated: executive compensation – 85%, general/multiple issues – 15%. *See Request, p. 10, fn. 7.*

The itemized direct expenses submitted by Greenlining include travel, photocopying, postage, etc., and total \$361.83. The cost breakdown shows the miscellaneous expenses to be commensurate with the work performed. We find these costs reasonable. There is a \$1,710.50 adjustment<sup>23</sup> to the request to reflect the difference in hourly rates as proposed by Greenlining and as found reasonable in this decision.

<b>Rate Adjusted Request Summary</b>	
General Participation	\$13,902.00
Philanthropy	9,105.00
Executive Compensation	10,2568.00
Supplier Diversity	9,105.00
Workforce Diversity	9,105.00
Subtotal	\$51,485.00
Copying	297.70
Postage	59.13
Travel	5.00
<b>Total Request - Adjusted</b>	<b>\$51,846.83</b>

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<sup>23</sup> The difference due solely to hourly rates between the requested \$53,195.50 and rate adjusted \$51,485.00.

## 7. Award

As set forth in the table below, we award Greenlining \$23,348.83 as reasonable compensation for its contributions to D.04-12-015.

<b>Authorized Compensation Summary</b>	
General Participation	\$13,902.00
Philanthropy	0
Executive Compensation	0
Supplier Diversity	0
Workforce Diversity	9,105.00
Subtotal	\$23,007.00
Copying	297.70
Postage	59.13
Travel	5.00
<b>Total Authorized - Adjusted</b>	<b>\$23,368.83</b>

Consistent with previous Commission decisions, we will order that interest be paid on the award amount (at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15) commencing the 75th day after Greenlining filed its compensation request and continuing until full payment of the award is made.

We remind all intervenors that Commission staff may audit their records related to this award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Greenlining's records should identify specific issues for which it requested compensation, the actual time spent by each employee or consultant, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation was claimed.

**8. Waiver of Comment Period**

This is an intervenor compensation matter. Accordingly, as provided by Rule 77.7(f)(6) of our Rules of Practice and Procedure, we waive the otherwise applicable 30-day comment period for this decision.

**9. Assignment of Proceeding**

Geoffrey F. Brown is the Assigned Commissioner and Douglas M. Long is the assigned ALJ in this proceeding.

**Findings of Fact**

1. Greenlining made a substantial contribution to SoCalGas' and SDG&E's 2004 test year cost of service applications as described herein.

2. Greenlining requested hourly rates for attorneys and experts that, as adjusted herein, are reasonable when compared to the market rates for persons with similar training and experience.

3. In D.04-12-015 the Commission adopted side agreements between Greenlining and SoCalGas and SDG&E. These agreements addressed non-revenue requirement issues including workforce diversity, supplier diversity, and philanthropy without impacting the test year revenue requirement.

4. Issues properly within the scope of R.03-02-035 and R.03-08-019 were excluded from this scope of this proceeding, and so any efforts expended on these issues are ineligible for compensation.

5. The Scoping Memo informed Greenlining that philanthropic giving was beyond the scope of this proceeding, so any efforts expended on philanthropy and executive compensation are ineligible for compensation.

6. It is reasonable to use hourly compensation rates previously approved for intervenor compensation. Resolution ALJ-184 provides a reasonable adjustment

to authorized 2003 rates for 2004. Greenlining did not demonstrate the existence of any additional expertise to justify compensation rate for Phillips higher than previously authorized.

7. The itemized direct expenses were reasonable and consistent with the scope of Greenlining's participation in this proceeding.

8. The total of the reasonable compensation is \$23,368.83.

### **Conclusions of Law**

1. Greenlining has fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to its claimed compensation, as adjusted herein, incurred in making substantial contributions to D.04-12-015.

2. Greenlining should be awarded \$23,368.83 for its contribution to D.04-12-015.

3. Per Rule 77.7(f)(6), the comment period for this compensation decision may be waived.

4. This order should be effective today so that Greenlining may be compensated without further delay.

## **O R D E R**

### **IT IS ORDERED** that:

1. The Greenlining Institute (Greenlining) is awarded \$23,368.83 as compensation for its substantial contributions to Decision (D.) 04-12-015.

2. Within 30 days of the effective date of this decision, Southern California Gas Company and San Diego Gas & Electric Company shall each pay Greenlining fifty percent (50%) of the total award. 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 on the 75<sup>th</sup> day after the filing date of Greenlining's request for compensation, and continuing until full payment is made.

3. The comment period for today's decision is waived.

4. This proceeding remains open for Phase 2 and other requests for compensation. The Appendix to the opinion summarizes today's award.

This order is effective today.

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

### Compensation Decision Summary Information

<b>Compensation Decision:</b>		<b>Modifies Decision?</b>
<b>Contribution Decision(s):</b>	D0412015	
<b>Proceeding(s):</b>	A0212027 et al	
<b>Author:</b>	ALJ Long	
<b>Payer(s):</b>	San Diego Gas & Electric Company and Southern California Gas Company	

### 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>
Greenlining Institute (Greenlining)	1/28/05	\$53,557.33	\$23,368.83	No	(1) Failure to justify hourly rates; \$1,710.50. (2) Disallow \$28,478 for failure to make substantial contributions.

**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>
Robert	Gnaizda	Attorney	Greenlining	\$450	2003	\$450
Robert	Gnaizda	Attorney	Greenlining	\$495	2004	\$490
Itzel	Berrío	Attorney	Greenlining	\$290	2003	\$275
Itzel	Berrío	Attorney	Greenlining	\$310	2004	\$300
Itzel	Berrío	Attorney	Greenlining	\$330	2005	\$325
Noelle	Abastillas	Support	Greenlining	\$95	2003	\$95
Noelle	Abastillas	Support	Greenlining	\$110	2004	\$110
John	Gamboa	Expert	Greenlining	\$350	2003	\$330
Michael	Phillips	Expert	Greenlining	\$360	2003	\$310