

Decision 09-11-028 November 20, 2009

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

Order Instituting Rulemaking to Develop Additional Methods to Implement the California Renewables Portfolio Standard Program.

Rulemaking 06-02-012  
(Filed February 16, 2006)

Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program.

Rulemaking 08-08-009  
(Filed August 21, 2008)

**DECISION GRANTING INTERVENOR COMPENSATION TO AGLET CONSUMER ALLIANCE FOR ITS SUBSTANTIAL CONTRIBUTIONS TO DECISIONS (D.) 07-02-011, D.08-05-029, AND D.09-06-050**

**1. Summary**

This decision awards Aglet Consumer Alliance \$15,985.80 in compensation for its substantial contributions to D.07-02-011, D.08-05-029, and D.09-06-050. This represents a decrease of \$1,652.75 or 9.4% from the amount requested due to lack of substantial contribution and excessive hours. Today’s award will be allocated to the affected utilities for payment. These Rulemakings (R.) 06-02-012 and R.08-08-009 remain open to address other related matters.

## 2. Background

Senate Bill (SB) 1078, effective January 1, 2003, established the California Renewables Portfolio Standard (RPS) Program.<sup>1</sup> As part of the RPS Program, each California electrical corporation or retail seller, with limited exception, is required each year to procure a minimum quantity of electricity from eligible renewable energy resources. The amount must increase by 1% each year, and reach 20% of total retail sales no later than 2010. As part of fulfilling this requirement, each electrical corporation must prepare a renewable energy procurement plan (Plan). The Commission is required to review and accept, modify or reject each Plan.

In Decision (D.) 07-02-011, issued in Rulemaking (R.) 06-05-027, the Commission conditionally accepted procurement plans for the 2007 RPS solicitations. In D.08-05-029 in R.06-02-012, the Commission established rules for the participation of small and multi-jurisdictional utilities (MJUs) in the RPS Program. In D.09-06-050, issued in R.08-08-009, the Commission established price benchmarks and contract review processes for short-term and bilateral procurement contracts for RPS compliance purposes.

Although all three proceedings relate to RPS implementation, they are not consolidated. R.06-05-027 was closed upon the opening of R.08-08-009, and all open matters were moved to R.08-08-009. (See R.08-08-009, page 5, Ordering Paragraphs 2 and 13.)

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<sup>1</sup> Stats. 2002, Ch. 516, Sec. 3, codified as Pub. Util. Code §§ 399.11, et seq. All subsequent code section references are to the Public Utilities Code unless noted otherwise.

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

The intervenor compensation program, which is set forth in Pub. Util. Code §§ 1801-1812, requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation if that party 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.

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 (PHC), pursuant to Rule 17.1 of the Commission's Rules of Practice and Procedure (Rules), or at another appropriate time 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 must 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) and 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 or as otherwise found by the Commission. (§§ 1802(i) and 1803(a).)
6. The claimed fees and costs must be reasonable (§ 1801), necessary for and related to the substantial contribution (D.98-04-059), comparable to the market rates paid to others with comparable training and experience (§ 1806), and productive (D.98-04-059).

In the discussion below, the procedural issues in Items 1-4 above are combined and a separate discussion of Items 5-6 follows.

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

Under § 1804(a)(1) and Rule 17.1(a)(1), a customer who intends to seek an award of intervenor compensation must file an NOI before certain dates.

On September 14, 2006, Administrative Law Judge (ALJ) Anne Simon ruled “Aglet Consumer Alliance (Aglet) was found eligible for compensation in this proceeding (R.06-02-012) in the Administrative Law Judge’s Ruling Finding Aglet Consumer Alliance Eligible to Claim Intervenor Compensation (March 30, 2006), issued in Rulemaking (R.) 04-04-026, the predecessor to this proceeding.” On September 20, 2006, at the request of ALJ Simon, Aglet filed an updated NOI in R.06-02-012.

On November 19, 2008, in R.08-08-009, ALJ Burton W. Mattson ruled that Aglet remained eligible to seek intervenor compensation. “This eligibility covers compensable intervenor work in R.06-05-027 and continues for compensable intervenor work in R.08-08-009.” (Ruling at 2.)

In its NOI, Aglet demonstrated significant financial hardship by showing that the economic interests of Aglet’s individual members are small compared to the costs of effective participation in the proceeding. On March 30, 2006 in R.04-04-026, an earlier predecessor to R.06-02-012, ALJ Simon found that Aglet had demonstrated the requirements of § 1802(g).

Pursuant to § 1804(b)(1), Aglet also established significant financial hardship by rebuttable presumption established in an earlier proceeding. On April 2, 2008, ALJ Timothy Kenney issued a ruling in Application (A.) 07-12-021 which found that Aglet was a customer and met the significant financial hardship requirement by rebuttable presumption established in another

proceeding, and met the eligibility requirements for intervenor compensation. R.08-08-009 commenced within one year of the date of ALJ Kenney's ruling.

Regarding the timeliness of the request for compensation, Aglet filed its request for compensation on August 18, 2009, within 60 days of the issuance of D.09-06-050.<sup>2</sup> No party opposed the request.

Aglet submits that its request for compensation is also timely filed for hours and expenses associated with its substantial contributions to D.07-02-011 and D.08-05-029. Aglet has delayed filing compensation requests for work associated with D.07-02-011 and D.08-05-029 for two reasons: (1) Aglet spent a small number of hours on issues resolved by the decisions; and (2) the general subject matter (RPS) evolved from one proceeding to another. Aglet recorded approximately 14 hours of professional time on issues resolved by D.07-02-011 and approximately 12 hours of professional time on issues resolved by D.08-05-029.

Aglet submits that its request for compensation is also timely filed for hours and expenses associated with its claim of substantial contribution to D.07-02-011 and D.08-05-029. This deferral of hours and costs is consistent with the Commission's longstanding practice in proceedings that produce a number of decisions as they run their course, especially when each decision may only involve a relatively small number of intervenor hours. Rather than require an intervenor to file a request after every decision to which an intervenor has made a substantial contribution, the Commission has permitted intervenors to file

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<sup>2</sup> D.09-06-050 was issued on June 19, 2009.

requests that include several decisions, even where some of those decisions were issued more than 60 days prior to the filing of the compensation request.

As an example of the Commission's past practice in this regard, Aglet references The Utility Reform Network's (TURN) compensation request for its substantial contributions to D.06-10-050, D.07-02-011, D.07-03-046, and D.07-05-057 and for participation in procurement review groups, filed on July 30, 2007, where the Commission found:

We agree with TURN that this practice continues to be reasonable.

It would be inefficient for an intervenor to prepare, and the Commission to address, individual requests after each of several decisions in a long-running proceeding, particularly when the intervenor's work on issues in any one decision may involve a relatively small number of intervenor hours. As TURN states, intervenors have no interest in devoting more of their limited resources to the preparation of a greater number of compensation requests, nor does the Commission have an interest in considering and adopting a greater number of decisions. Furthermore, an approach that requires an intervenor to wait until the issuance of a final decision would be inconsistent with the Legislative intent that compensation be awarded within a reasonable period after the intervenor has made a substantial contribution to a proceeding.<sup>3</sup>

We approve Aglet's request that the Commission apply this same standard of timeliness here in our evaluation of Aglet's compensation request. With this approval, we find Aglet's requests for compensation for all of the decisions contained herein to be timely filed.

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<sup>3</sup> D.07-10-012 at 5.

In view of all of these facts, we affirm the ALJs' rulings and find that Aglet has satisfied all the procedural requirements necessary to make its request for compensation in this proceeding.

## **5. Substantial Contribution**

In evaluating whether a customer made a substantial contribution to a proceeding, we look at several things. First, we look at whether the Commission adopted one or more of the factual or legal contentions, or specific policy or procedural recommendations put forward by the customer. (§ 1802(i).) Second, if the customer's contentions or recommendations paralleled those of another party, we look at whether the customer's participation unnecessarily duplicated or materially supplemented, complemented, or contributed to the presentation of the other party. (§§ 1801.3(f) and 1802.5.)

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.

Should the Commission not adopt any of the customer's recommendations, compensation may still be awarded if, in the judgment of the Commission, the customer's participation substantially contributed to the decision or order. For example, if a customer provided a unique perspective that enriched the Commission's deliberations and the record, the Commission could find that the customer made a substantial contribution. With this guidance in mind, we examine the specific issues where Aglet claims it made a substantial contribution.

### **5.1. RPS Transparency**

The Commission has noted:

Each investor-owned utility (IOU) was directed to submit a preliminary Evaluation Criteria and Selection Process Report on September 29, 2006. A workshop on transparency of the RPS procurement process, including evaluation criteria, was held on December 15, 2006. The first reports from Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE) were filed on December 21, 2006 along with short lists.

Work continues in this area, and it continues to deserve this work. Each IOU can do a better job clearly explaining its evaluation criteria and selection process. Each must do so in its amended 2007 Plan.<sup>4</sup>

Jan Reid, Aglet's consultant attended the Energy Division workshop on RPS transparency on December 15, 2006. Energy Division Staff Proposals on transparency, reporting templates and other issues were distributed at the workshop. On December 19, 2006, Susannah Churchill sent an email to parties on behalf of the Energy Division in which she requested comments on the Energy Division Staff Proposals. Aglet attached to this claim a copy of the requested comments it submitted as follow-up to the RPS transparency workshop.

Aglet submits that it made a substantial contribution to the ongoing resolution of transparency and reporting issues through its participation both in the workshop and through the comments it served on January 5, 2007 to the Energy Division on its Energy Division Proposals.

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<sup>4</sup> D.07-02-011 at 37.

We affirm Aglet's claim of substantial contribution for its participation on these issues, subject to our further analysis on the reasonableness of hours for which it seeks compensation.

## **5.2. Integrated Resource Plans of Multi-Jurisdictional Utilities**

On May 8, 2007, Aglet filed and served comments on the Integrated Resource Plans (IRPs) of two multi-jurisdictional utilities: PacifiCorp and Sierra Pacific Power Company (Sierra). Aglet was the only party to file and serve comments on the IRPs recommending: (1) The Commission should not order Sierra and PacifiCorp to file renewable procurement plans; (2) The Commission should order Sierra and PacifiCorp to procure renewable resources for the California RPS program using the same procurement processes that they use under their existing IRPs; and (3) The Commission should review future IRPs for Sierra and PacifiCorp to determine whether they are consistent with the standards of the California RPS program.<sup>5</sup>

The Commission stated:

Aglet, the only commenter on the IRPs, notes that neither Sierra nor PacifiCorp specifically identifies how its respective IRP comports with the requirements set forth above. Aglet suggests that the IRPs be approved nevertheless, with instructions that the two utilities provide the necessary analysis in later years.

We agree with Aglet. Because § 399.17(b)(3)(d) requires that IRPs show overall conformity to RPS procurement planning processes, we examine the IRPs briefly here. As we explain below, we accept the 2007 IRPs of both utilities, but note the need for

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<sup>5</sup> Comments of Aglet on Integrated Resources Plans, filed on May 8, 2007, at 1.

additional information in the future. We also set a schedule for subsequent submissions.<sup>6</sup>

We affirm Aglet's substantial contribution to the resolution of the IRP issue because the Commission adopted Aglet's recommendations, as reflected by the above-quoted text. We approve compensation on this issue subject to our further analysis on the reasonableness of hours for which Aglet seeks compensation.

### **5.3. Moderately Short-Term Price Benchmark**

In May 2007, the Energy Division requested comments on a number of issues.<sup>7</sup> Aglet filed and served opening comments (Benchmark Comments) on June 14, 2007 and reply comments (Benchmark Reply Comments) on June 25, 2007. In its comments, Aglet recommended the following: (1) the Commission should define a short-term contract as a contract of 10 years or less duration; (2) the RPS market price referent (MPR)<sup>8</sup> be used as the benchmark for short-term contracts, with a separate MPR calculated for each year; and (3) a short-term MPR should be calculated annually and should be based on the existing long-term MPR.

Aglet submits that the Commission agreed with Aglet when it established a moderately short-term benchmark for contracts from four to ten years in duration. In support of its position, Aglet cites to the following in D.09-06-050 at 42, Ordering Paragraph 6.

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<sup>6</sup> D.08-05-029 at 19.

<sup>7</sup> See Administrative Law Judge's Ruling Providing Opportunity For Comments and Reply Comments in R.06-02-012, dated May 10, 2007.

<sup>8</sup> See § 399.15.

The Director of Energy Division is authorized to calculate the a price reasonableness benchmark for procurement contracts for energy products for compliance with the renewables portfolio standard that have a duration of at least four years but less than 10 years based on the calculation of the market price referent established pursuant to § 399.15 for the same solicitation year as the year the contract is signed. Prices for such contracts that are equal to or less than the price reasonableness benchmark are per se reasonable and may be recovered in rates.

We affirm that Aglet made a substantial contribution on this issue, subject to our further analysis on the reasonableness of hours for which it seeks compensation.

#### **5.4. Very Short-Term Price Benchmark**

Aglet/Division of Ratepayer Advocates (DRA) provided the Commission with a price benchmark based on publicly posted prices available at the New York Mercantile Exchange. The prices would then be adjusted to reflect the IOUs' Time of Delivery profiles, gas transportation charges, environmental value, and the basis differential.<sup>9</sup>

The Commission ruled that “a very short-term contract that meets all other requirements but does not have a levelized price (including firming or shaping costs) equal to or below 150% of the index price (as determined by Energy Division staff) and below 90% of the 10-year MPR as well will not be eligible for the fast track.”<sup>10</sup>

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<sup>9</sup> Aglet and DRA Joint Comments and Attachment A filed in R.06-02-012 on September 24, 2007 at 3-6.

<sup>10</sup> D.09-06-050 at 18.

Aglet argues that it made a substantial contribution to the resolution of the Price Benchmark issue, because there is a small numerical difference between the benchmark established by the Commission and the benchmark recommended by Aglet/DRA. Under the Commission benchmark, the average benchmark would be approximately \$72/megawatt-hour (MWh) compared to an average weighted benchmark of \$80.28/MWh recommended by Aglet/DRA.

We agree that Aglet made a substantial contribution by identifying and supporting an index-based price benchmark. We approve Aglet's requested hours for its participation on this issue, subject to our further analysis on the reasonableness of hours for which it seeks compensation.

#### **5.5. Contract Pre-Approval and Cost Recovery**

The Commission noted that "Aglet and DRA argue that only the shortest contracts (less than six months) should be allowed on a pre-approval basis, without Commission review."<sup>11</sup> The Commission also noted that "the reservations about blanket pre-approval of short-term contracts expressed by Aglet, DRA, Reid and TURN are significant."<sup>12</sup>

Aglet submits that although the Commission did not adopt the proposal of Aglet/DRA, the Commission did establish a fast-track structure for approval of contracts with a duration of at least one month and less than 48 months. If a contract met certain conditions, an IOU would be allowed to take advantage of the fast-track structure by filing a Tier 2 advice letter.<sup>13</sup> We agree that Aglet made a substantial contribution to resolution of the pre-approval issue, subject to

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<sup>11</sup> D.09-06-050 at 9.

<sup>12</sup> D.09-06-050 at 19.

our further analysis on the reasonableness of hours for which it seeks compensation.

On a related issue, in its early comments, PG&E proposed that contracts of less than three years duration should not require Commission pre-approval for full rate recovery of costs.<sup>14</sup> San Diego Gas & Electric Company (SDG&E) supported this suggestion, and took it a step further by stating that all contracts of less than five years duration should not require Commission pre-approval.<sup>15</sup>

Aglet and DRA recommended that “the Commission should reject this proposal as it would unnecessarily expose ratepayers to bearing costs the Commission might ordinarily reject. The purpose of the exemption for short-term contracts is to ensure that regulatory delays do not inhibit the ability of utilities to sign short-term contracts.”<sup>16</sup>

Aglet argues that the Commission denied PG&E’s proposal, effectively agreeing with Aglet/DRA.<sup>17</sup> Although the Commission ruled on the modified form of this proposal PG&E presented in its 2009 RPS procurement plan, the substantive issues were the same as those on which Aglet commented. Aglet made a substantial contribution to the Commission's decision not to approve PG&E's modified proposal.

We agree that Aglet made a substantial contribution to resolution of the cost recovery issue (which is associated with the pre-approval issue), subject to

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<sup>13</sup> D.09-06-050 at 37, Ordering Paragraph 1.

<sup>14</sup> PG&E Comments, R.06-02-012, September 24, 2007, at 12.

<sup>15</sup> SDG&E Comments, R.06-02-012, September 24, 2007, at 12.

<sup>16</sup> Aglet and DRA Joint Reply Comments filed in R.06-02-012 on October 1, 2007, at 2.

<sup>17</sup> D.09-06-050 at 36, Conclusion of Law 12.

our further analysis on the reasonableness of hours for which it seeks compensation.

### **5.6. Commercial Operation**

Aglet and DRA recommended that:

The IOUs continue to submit short-term contracts for Commission approval via advice letter unless: (1) the contract duration is less than six months; and (2) the renewables plant commences delivery less than six months after the contract is signed. Additionally, Aglet and DRA recommended that the IOU be required to demonstrate in its quarterly filing: (1) why a contract with a duration of more than six months could not have been used instead of a contract with a duration less than six month; and (2) whether or not the IOU has signed the contract in a timely fashion relative to the close of contract negotiation. This will allow the Commission adequate time to approve or reject the proposed contracts. The IOUs should be required to demonstrate that they have signed contracts in a timely fashion in order to prevent the IOUs from avoiding Commission review by waiting until the six-month deadline has passed.”<sup>18</sup>

Aglet submits that in part, the Commission agreed with Aglet/DRA when it found:

In order to protect ratepayers from unnecessary high prices for RPS eligible energy procured through short-term contracts with generation facilities that are in commercial operation or will commence commercial operation not later than six months from the date the contract is signed. It is reasonable to establish price reasonableness benchmarks for short-term contract prices.<sup>19</sup>

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<sup>18</sup> Joint Reply Comments of the DRA and Aglet on the ALJ’s Ruling Requesting Further Comments on Short-Term Pricing Benchmark Proposals, filed in R.06-02-012 on September 24, 2007, at 8.

<sup>19</sup> D.09-06-050 at 32, Finding of Fact 6.

Aglet focused the Commission's attention on the issue of the date of commercial operation and made a proposal that was adopted in part. We agree that Aglet made a substantial contribution on this issue, subject to our further analysis on the reasonableness of hours for which it seeks compensation.

## **6. Contributions of Other Parties**

Section 1801.3(f) requires an intervenor to avoid participation that duplicates that of similar interests otherwise adequately represented by another party, or participation unnecessary for a fair determination of the proceeding. Section 1802.5, however, allows an intervenor to be eligible for full compensation where its participation materially supplements, complements, or contributes to the presentation of another party if that participation makes a substantial contribution to the Commission order.

Aglet submits that it contributed to these proceedings in a manner that did not repeat the work of other parties. As a matter of policy, Aglet states that it does not participate in Commission proceedings where it is likely to hold the same positions as other customer representatives such as TURN and DRA. For example, Aglet says it did not serve testimony in Phase 3 of the long-term plan proceeding, R.06-02-012, because Aglet's showing would likely have duplicated the showings of TURN and DRA.

Aglet and TURN were the sole parties to represent only residential and small commercial customers. Although the DRA was also an active party, it represents the interest of all customers, not only residential and small commercial customers. Aglet asserts it made a conscious effort to avoid duplication of the DRA's work in its showing. Aglet worked with DRA to reduce its costs of participation by producing joint filings with DRA on the issues of contract price, benchmarks, cost recovery and contract pre-approval. In

addition, Aglet says it conferred with TURN on several occasions on the issue of short-term contract benchmarks.

We affirm that Aglet took reasonable steps to keep duplication to a minimum and to ensure that its work served to supplement, complement, or contribute to the showing of the other very active parties in these rulemaking proceedings. No reduction for duplication is warranted.

After we have determined the scope of a customer’s substantial contribution, we then look at whether the amount of the compensation request is reasonable.

### 6.1. Allocation of Time by Major Issue

Aglet breaks down its compensation by major issue as follows:

Cost Category	Requested Compensation Hours
<b>General Work</b>	<b>13.4</b>
Issue Specific Work:	
Commercial Operation	2.1
Contract Pre-Approval/Cost Recovery	5.1
Integrated Resource Plans	11.7
Price Benchmarks	15.4
Reporting	5.9
Short Term Market Price Referent	25.2
Transparency	9.2
<b>Issues Sub-Total</b>	<b>74.6</b>
<b>Total</b>	<b>88.0</b>

## 7. Reasonableness of Requested Compensation

Aglet requests \$17,638.55 for its participation in these rulemakings, as follows:

Attorney/Staff	Work on Proceeding			
	Year	Hours	Hourly Rate	Total \$
James Weil	2008	1.0	\$300	300.00

James Weil	2007	5.7	\$280	1,596.00
L. Jan Reid	2006	9.8	\$155	1,519.00
L. Jan Reid	2007	71.5	\$170	12,155.00
<b>Subtotal Hourly Compensation:</b>				<b>\$15,570.00</b>

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#### Preparation of NOI and Compensation Request (1/2 rate)

<b>Attorney/Staff</b>	<b>Year</b>	<b>Hours</b>	<b>Hourly Rate</b>	<b>Total \$</b>
James Weil	2006	0.7	\$130	91.00
James Weil	2008/2009	6.2	\$150.00	930.00
L. Jan Reid	2006	2.5	\$77.50	193.75
L. Jan Reid	2009	8.2	\$92.50	758.50
<b>Subtotal NOI and Compensation Request:</b>				<b>1,973.25</b>
<b>Expenses (Photocopying and Postage)</b>				<b>95.30</b>
<b>Total Requested Compensation</b>				<b>\$17,638.55</b>

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In general, 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. The issues we consider to determine reasonableness are discussed below.

#### 7.1. Hours and Costs Related to and Necessary for Substantial Contribution

We first assess whether the hours claimed for the customer's efforts that resulted in substantial contributions to Commission decisions are reasonable by determining to what degree the hours and costs are related to the work performed and necessary for the substantial contribution.

Aglet documented its claimed hours by presenting a breakdown of the hours of its attorneys, accompanied by a brief description of each activity. We here fully compensate Aglet for the hours it asserts are related to its general work in these rulemakings. We do however, make reductions to this claim

where Aglet either failed to make a substantial contribution on an issue or requests compensation for hours which we find are excessive.

After the reductions listed below, the remainder of Aglet’s hours and costs reasonably supports today’s award for compensation.

**CPUC Disallowances**

<b>Hours</b>	<b>Justification</b>
2006-Reid	Aglet requests a total of 1.5 hrs of compensation for Reid’s attendance at a PHC on June 26. We reduce the requested amount by .50 hrs to reflect the same amount of time logged by other intervenors in attendance at the same conference.
2006-Reid	Aglet requests 2.5 hrs of compensation for Reid’s time spent drafting an NOI on July 25. We reduce this requested amount by 1.5 hrs (billed at ½ rate) to more closely reflect our standards of reasonableness.
2006-Reid	Aglet requests a total of 5.5 hrs of compensation for Reid’s attendance at a workshop on RPS Transparency on Dec 15. We reduce this requested time by 1.0 hr to reflect the same amount of time logged by other intervenors in attendance at the same workshop.
2007-Reid	Aglet requests a total of 10.5 hrs for Reid’s time writing and editing comments on IRPs of SMJUs. Although Aglet made a substantial contribution on this issue, we consider this amount of time to be excessive, given the product produced (3 pages). As such, we reduce the requested time for this task by 4.5 hrs.
Preparation of Intervenor Compensation	Aglet requests a total of 17.60 hrs for preparation of its request for intervenor compensation. We approve a more reasonable amount of 12.20 hours for this task. Upon review of the claim, Weil’s hours are disproportionate. Aglet requests 6.7 hrs for his work in the proceeding and 6.90 hrs his work on intervenor claim preparation. To assist in the achievement of greater efficiency in this area, we encourage Aglet to use the standardized intervenor compensation forms and claim available on our website. To achieve our allowance, we reduce Weil’s 2008/2009 time for compensation preparation by 3.1 hrs and Reid’s 2009 hours by .8 hrs. The adjusted total more closely reflects our standards of reasonableness.

**7.2. Intervenor Hourly Rates**

We next take into consideration whether the claimed fees and costs are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services.

The Commission has previously approved rates for both Weil and Reid for most of the years requested in this claim. We use those same rates here without further discussion. Aglet requests an hourly rate of \$185 for Reid’s work in 2009. We previously approve this same rate for Reid’s work in 2008 in D.08-11-053. Pursuant to ALJ-235, we adopt this same rate for Reid’s 2009 work here.

<b>Requested vs. Adopted Rates</b>				
<b>Name</b>	<b>Requested Rate</b>	<b>Year</b>	<b>Adopted Rate</b>	<b>Justification</b>
James Weil	\$260	2006	\$260	D.06-10-018
James Weil	\$280	2007	\$280	D.07-05-037
James Weil	\$300	2008	\$300	D.08-05-033
James Weil	\$300	2009	\$300	D.09-05-013
L. Jan Reid	\$155	2006	\$155	D.06-11-032
L. Jan Reid	\$170	2007	\$170	D.07-05-037
L. Jan Reid	\$185	2009	\$185	Equal to 2008 rate- Resolution ALJ 235

**7.3. Direct Expenses**

The itemized direct expenses submitted by Aglet include the following:

<b>Printing &amp; Photocopying</b>	\$49.83
<b>Postage &amp; Delivery</b>	\$45.47
<b>Total Expenses</b>	\$95.30

We find these costs reasonable and commensurate with the work performed and approve them here.

## **8. Productivity**

D.98-04-059 directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. (D.98-04-059 at 34-35.) 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. Aglet states that it contributed to the proceeding in a manner that was productive and will result in benefits to ratepayers that exceed the costs of its participation.

As previously mentioned, Aglet and DRA opposed PG&E's proposal for automatic pre-approval of all RPS contracts with durations of less than three years. Aglet has previously calculated that ratepayers will lose at least \$16.29 million annually if a 100 MW plant is not built due to the lack of a long-term contract.<sup>20</sup> Thus, the displacement of a single MW of plant capacity by a short-term contract would cost ratepayers roughly \$163,000 per year, or more than ten times the award requested by Aglet.

We agree with Aglet's assessment of its productivity and concur that inclusive of the reductions we make to this claim, that Aglet's contribution to D.07-02-011, D.08-05-029, and D.09-06-050 reasonably justifies the compensation we approve here today.

## **9. Award**

As set forth in the table below, we award Aglet \$15,985.80.

### **Work on Proceeding**

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<sup>20</sup> Aglet's Comments in R.06-02-012, filed December 1, 2006, at 5-6.

<b>Attorney/Staff</b>	<b>Year</b>	<b>Hours</b>	<b>Hourly Rate</b>	<b>Total \$</b>
James Weil	2007	5.7	\$280	1,596.00
James Weil	2008	1.0	\$300	300.00
L. Jan Reid	2006	8.3	\$155	1,286.50
L. Jan Reid	2007	67.0	\$170	11,390.00
<b>Subtotal Hourly Compensation:</b>				<b>\$14,572.50</b>
<b>Preparation of NOI and Compensation Request (1/2 rate)</b>				
<b>Attorney/Staff</b>	<b>Year</b>	<b>Hours</b>	<b>Hourly Rate</b>	<b>Total \$</b>
James Weil	2006	0.7	\$130	91.00
James Weil	2008/2009	3.1	\$150.00	465.00
L. Jan Reid	2006	1.0	\$ 77.50	77.50
L. Jan Reid	2009	7.4	\$ 92.50	684.50
<b>Subtotal NOI and Compensation Request:</b>				<b>\$1,318.00</b>
<b>Expenses (Photocopying and Postage)</b>				<b>\$95.30</b>
<b>Total Award</b>				<b>\$15,985.80</b>

Pursuant to § 1807, we order SDG&E, SCE, and PG&E to pay this award. Consistent with previous Commission decisions, we 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 on November 1, 2009, the 75th day after Aglet filed its compensation request, and continuing until full payment of the award is made.

We direct SDG&E, SCE, and PG&E to allocate payment responsibility amongst them based upon their California-jurisdictional electric revenues for the 2007 calendar year, reflecting both the year in which most of the work was done, and utilizing, the most recent complete year or revenue data.

We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor

compensation. Aglet's records should identify specific issues for which it requested compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants, and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

#### **10. Waiver of Comment Period**

This is an intervenor compensation matter. Accordingly, as provided by Rule 14.6(c)(6) of the Commission's Rules of Practice and Procedure, we waive the otherwise applicable 30-day comment period for this decision.

#### **11. Assignment of Proceeding**

Michael R. Peevey is the assigned Commissioner, and Burton W. Mattson and Anne E. Simon are the assigned ALJs in this proceeding.

#### **Findings of Fact**

1. Aglet has satisfied all the procedural requirements necessary to claim compensation in this proceeding. Aglet has made a substantial contribution to D.07-02-011, D.08-05-029, and D.09-06-050 as described herein.
2. Aglet requested hourly rates for its representatives that are reasonable when compared to the market rates for persons with similar training and experience.
3. Aglet requested related expenses that are reasonable and commensurate with the work performed.
4. The total of the reasonable compensation is \$15,985.80.
5. The Appendix to this decision summarizes today's award.

### **Conclusions of Law**

1. Aglet has fulfilled the requirements of §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its claimed expenses, as adjusted herein, incurred in making substantial contributions to D.07-02-011, D.08-05-029, and D.09-06-050.

2. Aglet should be awarded \$15,985.80 for its contribution to D.07-02-011, D.08-05-029, and D.09-06-050.

3. This order should be effective today so that Aglet may be compensated without further delay.

4. R.06-02-012 and R.08-08-009 remain open to address other related matters.

### **O R D E R**

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

1. Aglet Consumer Alliance (Aglet) is awarded \$15,985.80 as compensation for its substantial contributions to Decisions (D.) 07-02-011, D.08-05-029, and D.09-06-050.

2. Within 30 days of the effective date of this decision, San Diego Gas & Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company shall pay their respective shares of the award. We direct San Diego Gas & Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company to allocate payment responsibility amongst them, based on their California-jurisdictional electric revenues for the 2007 calendar year, to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15,

beginning November 1, 2009, the 75th day after the filing date of Aglet's request for compensation, and continuing until full payment is made.

3. Rulemaking (R.) 06-02-012 and R.08-08-009 remain open to address other related matters.

This order is effective today.

Dated November 20, 2009, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
TIMOTHY ALAN SIMON  
Commissioners

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

<b>Compensation Decision:</b>	<b>D0911028</b>	<b>Modifies Decision?</b> No
<b>Contribution Decision(s):</b>	D0702011, D0805029, and D0906050	
<b>Proceeding(s):</b>	R0602012 and R0808009	
<b>Author:</b>	ALJs Simon and Mattson	
<b>Payer(s):</b>	San Diego Gas & Electric Company, Southern California Edison Company, and Pacific Gas and Electric 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>
Aglet Consumer Alliance	08-18-09	\$17,638.55	\$15,985.80	No	Lack of substantial contribution and excessive hours

**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>
James	Weil	Expert	Aglet Consumer Alliance	\$260	2006	\$260
James	Weil	Expert	Aglet Consumer Alliance	\$280	2007	\$280
James	Weil	Expert	Aglet Consumer Alliance	\$300	2008	\$300
James	Weil	Expert	Aglet Consumer Alliance	\$300	2009	\$300
L. Jan	Reid	Expert	Aglet Consumer Alliance	\$155	2006	\$155
L. Jan	Reid	Expert	Aglet Consumer Alliance	\$170	2007	\$170
L. Jan	Reid	Expert	Aglet Consumer Alliance	\$185	2009	\$185

**(END OF APPENDIX)**