

Decision 10-11-029 November 19, 2010

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

Order Instituting Rulemaking to Consider Smart Grid Technologies Pursuant to Federal Legislation and on the Commission's own Motion to Actively Guide Policy in California's Development of a Smart Grid System.

Rulemaking 08-12-009  
(Filed December 18, 2008)

**DECISION AWARDING INTERVENOR COMPENSATION TO THE GREENLINING  
INSTITUTE FOR SUBSTANTIAL CONTRIBUTION TO DECISION 10-06-047**

<b>Claimant: The Greenlining Institute (Greenlining)</b>	<b>For contribution to Decision (D.) 10-06-047</b>
<b>Claimed: \$26,240</b>	<b>Awarded: \$20,925.50 (reduced 21%)</b>
<b>Assigned Commissioner: Nancy E. Ryan</b>	<b>Assigned ALJ: Timothy J. Sullivan</b>

**PART I: PROCEDURAL ISSUES****A. Brief Description of Decision:**

D.10-06-047 adopted rules for utilities deploying Smart Gridmeters.

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

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	N/A	
2. Other Specified Date for Notice of Intent (NOI):	April 26, 2010	Correct
3. Date NOI Filed:	April 2, 2010	Correct
4. Was the notice of intent timely filed?		Yes
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	R.08-12-009	Correct
6. Date of ALJ ruling:	July 29, 2010	Correct
7. Based on another CPUC determination (specify):		
8. Has the claimant demonstrated customer or customer-related status?		Yes

<b>Showing of “significant financial hardship” (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	R.08-12-009	Correct
10. Date of ALJ ruling:	July 29, 2010	Correct
11. Based on another CPUC determination (specify):	D.09-12-043 <sup>1</sup>	Pursuant to §1804(b), a rebuttable presumption of significant financial hardship established in D.09-12-043 extends to Greenlining’s participation in this proceeding.
12. Has the claimant demonstrated significant financial hardship?		Yes
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision	D.10-06-047	Correct
14. Date of Issuance of Final Decision:	June 28, 2010	Correct
15. File date of compensation request:	August 25, 2010	August 26, 2010
16. Was the request for compensation timely?		Yes

## **PART II: SUBSTANTIAL CONTRIBUTION**

### **A. Claimant’s description of its contribution to the final decision:**

<b>Contribution</b>	<b>Citation to Decision or Record</b>	<b>Showing Accepted by CPUC</b>
<p>1. Proposed that each utility’s Smart Grid deployment plan should include strategies for meeting General Order (GO) 156 goals.</p> <p>(See Opening Comments (filed March 9, 2010) at 4-7; Reply Comments (filed April 7, 2010) at 2-6; Opening Comments on Proposed Decision (PD) (filed June 10, 2010) at 2-6.</p> <p>This proposal is especially needed as the Smart Grid entails procurement in</p>	<p>D.10-06-047 at 49, Findings of Fact #31, Conclusion of Law #19, Order #5 (Requires that the strategy section of a utility’s deployment plan should include strategies for meeting GO 156 goals).</p> <p>D.10-06-047 at 48, 112-113 (Discusses the challenges facing utilities’ supplier diversity programs from procurement in new technology areas where diverse suppliers are not familiar with the utilities).</p>	Yes

<sup>1</sup> Issued on December 17, 2009 in A.06-12-009.

<p>new technology areas where diverse suppliers and utilities may not be as familiar with each other.</p> <p>(See Opening Comments at 6-7; Reply Comments at 2-4; Opening Comments on PD at 3-5).</p>		
<p>2. Supports the view that deployment plans may set a baseline for monitoring deployment, but approval of a deployment plan does not mean investments are reasonable, because of the rapid developments in technology.</p> <p>(See Opening Brief at 11-12)</p>	<p>D.10-06-047 at 19-20, 39 (citing Greenlining’s support for the position adopted below).</p> <p>D.10-06-047 at 21-22 (establishing deployment plans as a policy guide for deployment, but not as a replacement for investment reasonableness review, due to the rapid changes in technology).</p>	<p>Yes</p>
<p>3. Supports review of deployment plans in a single proceeding, facilitating participation by many parties and allowing comparison of utilities’ different strategies.</p> <p>(See Opening Brief at 14)</p>	<p>D.10-06-047 at 86 (discussing Greenlining’s contributions) at 88-89 (adopting position that all utilities’ deployment plans will be reviewed in a single proceeding).</p>	<p>Yes</p>
<p>4. Supporting inclusion of cost estimates in deployment plans. Also supports inclusion of a cost-benefit analysis, with alternatives discussed, in the deployment plans.</p> <p>(See Opening Brief at 12-13)</p>	<p>D.10-06-047 at 66 (discussing Greenlining’s contributions) at 68-69 (requiring preliminary cost estimates in deployment plans, but not cost-benefits analysis).</p>	<p>Yes</p>
<p>5. Arguing that establishing a demarcation point between the utility and the customer (at the meter) would facilitate third-party innovation, but that customers should be free to allow providers of their choice, including utilities, to provide consumer devices beyond the meter.</p> <p>(See Opening Comments at 18-19; Opening Comments on PD at 9).</p>	<p>D.10-06-047 at 104-05 (discussing Greenlining’s contributions) at 109 (declining to adopt a demarcation point at this time, but will consider the issue once deployment plans are being reviewed).</p>	<p>Yes</p>
<p>6. Proposing that deployment plans should establish that Smart Grid deployment take place equitably across various communities and regions).</p>	<p>D.10-06-047 at 82 (discussing Greenlining’s proposed metrics measuring equitable deployment). The final decision does not address</p>	<p>Yes</p>

<p>(See Opening Comments at 7-10; Reply Comments at 4-5; Opening Comments on PD at 8).</p>	<p>equitable deployment. However, in the metrics workshops proposed in the final decision (at 84-85), metrics measuring equitable deployment have been proposed and discussed. Although D.10-06-047 does not specifically address equity, it is clear from the metrics workshops that the Commission is addressing this issue as the proceeding continues. As such, the contribution made by Greenlining in this phase is substantial.</p>	
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**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>a. Was DRA a party to the proceeding?</b>	Yes	Yes
<b>b. Were there other parties to the proceeding?</b>	Yes	Yes
<p><b>c. If so, provide name of other parties:</b></p> <p>The Alliance for Retail Energy Markets, the Black Economic Council (BEC), the California Cable and Telecommunications Association (CCTA), the California Energy Storage Alliance (CESA), the California Independent System Operator Corporation (ISO), California Large Energy Consumers Association (CLECA), the Center for Democracy and Technology (CDT) and the Electronic Frontier Foundation (EFF) (filing jointly), Center for Energy Efficiency and Renewable Technologies (CEERT), Cisco Systems, Inc. (Cisco), Consumer Federation of California (CFC), the Division of Ratepayer Advocates (DRA), Electronic Privacy Information Center (EPIC), Energy Hub, Inc., Environmental Defense Fund (EDF), Google, Inc., the Green Power Institute, Interstate Renewable Energy Council (IREC), Latino Business Chamber of Greater Los Angeles, MegaWatt Storage Farms, Inc., Pacific Gas and Electric Company (PG&amp;E), Pacific Telephone Company, d/b/a AT&amp;T California (AT&amp;T), Privacy and Cyber Security Law and Policy Researchers, QUALCOMM Inc., San Diego Gas &amp; Electric Company (SDG&amp;E), Southern California Edison Company (SCE), Tendril Networks, Inc., The Utility Reform Network (TURN), the Utility Consumers’ Action Network (UCAN), Verizon California, Inc., MCI Communications Services, Inc. d/b/a Verizon Business Services, and Verizon Wireless (collectively “Verizon”), and Wal-Mart Stores, Inc. and Sam’s West, Inc.(Wal-Mart).</p>	Yes	
<b>d. Claimant’s description of how Claimant coordinated with DRA and other parties to avoid duplication or how its participation supplemented, complemented, or contributed to that of another party:</b>	Yes	

<p>While Greenlining seeks to protect all ratepayers from unnecessary costs and promote rules that foster renewable energy, Greenlining’s specific constituents are communities of color and low income communities. Therefore, Greenlining’s perspective on issues differs from that of general ratepayer advocates, and supplements it by providing analysis specific to vulnerable and/or underserved segments of the ratepayer population. For example, our advocacy sought to ensure that the benefits from Smart Grid reached low-income communities and communities of color, both through GO 156 supplier diversity requirements in deployment plans, and through requirements for equitable deployment.</p> <p>Greenlining coordinated with DRA and with other ratepayer advocates to ensure that our efforts were not duplicated. Where our issues overlapped, we sought to coordinate strategies to minimize duplication and maximize efficacy. Where parties made similar arguments, the reasoning in support of each differed, allowing the Commission a broader range of opinions on the issues.</p>	
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**C. Claimant’s additional Comments on Part II**

#	Claimant	CPUC	Comment
II.A., 4, 5, 6	X		Although ultimately Greenlining’s position did not fully prevail in these particular issues, Greenlining’s participation substantially contributed to the decision by providing a meaningful opposition to other parties’ proposals as well as justification to certain alternative views. Greenlining brought to the proceeding perspectives of the low-income and minority ratepayers regarding Smart Grid deployment plans, perspectives not voiced by any other party.

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

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

<p><b>Claimant’s explanation of how the cost of its participation bore a reasonable relationship with benefits realized through claimant’s participation</b></p>	<p><b>CPUC Verified</b></p>
<p>It is difficult to assign a precise dollar value to Greenlining’s participation. Some of Greenlining’s contributions accepted by the final decision will likely save ratepayers money, such as advocacy to include cost estimates in deployment plans.</p> <p>Greenlining’s advocacy to include GO 156 requirements in deployment plans will ensure that the Smart Grid benefits from a diverse range of suppliers, providing the benefits of competition that may keep supplier costs down. Greenlining’s contributions here are also designed to address the adverse results to the Commission’s GO 156 goals that may be brought about by Smart Grid procurement in new markets where diverse suppliers may not be connected to the utilities. This is a worthy contribution in itself.</p> <p>Greenlining’s contributions assisted the Commission in setting forth guidelines for Smart Grid deployment plans. The resulting Smart Grid will provide efficiency and reliability benefits to the entire energy grid and provide individual benefits to ratepayer in the form of enhanced abilities to control their energy efficiency and take advantage of dynamic pricing. These benefits are difficult estimate in dollar terms at this point, since pricing structures are still in flux and technological deployment is only just beginning, but benefits will be provided for all ratepayers.</p> <p>These contributions, as well as additional contributions described above, informed the record and the Commission’s decision-making process. Although some were not ultimately adopted, they were primarily measures to keep future costs under control (such as including a cost-benefit analysis in deployment). Thus, it is clear that our advocacy was designed to keep costs low and derive as many benefits for ratepayers as possible.</p>	<p>Greenlining’s advocacy on GO 156 B issues constitutes a contribution to the proceeding. The development of a Smart Grid will be a major procurement activity and it is important that the GO 156 compliance issue was raised and kept at the forefront of this proceeding. Greenlining was the only intervenor to raise this issue.</p> <p>After the adjustments and disallowances we make to this claim, the remainder of Greenlining’s hours and costs are reasonable and should be compensated.</p>

**B. Specific Claim:**

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
S. Kang	2010	3.9	220	See Attachment A	858.00	2010	3.7	200	740.00
S. Chen	2010	4.8	210	See Attachment A	1,008.00	2010	4.3	185	795.50
E. Gallardo	2010	64.8	350	See Attachment A	22,680.00	2010	52.4	350	18,340.00
<b>Subtotal: \$24,546.00</b>						<b>Subtotal: \$19,875.50</b>			
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
S. Chen	2010	.3	105	See Attachment A	31.50	2010	0	92.50	0.00
E. Gallardo	2010	9.5	175	See Attachment A	1,662.50	2010	6.0	175	1,050.00
<b>Subtotal: \$1,694.00</b>						<b>Subtotal: \$1,050.00</b>			
<b>TOTAL REQUEST: \$26,240.00</b>						<b>TOTAL AWARD: \$20,925.50</b>			

**C. CPUC Adoptions, Disallowances & Adjustments:**

Item	Reason
ADOPTIONS	
2010 Kang hourly rate	We approved a rate of \$200 for Kang's 2010 work in A.09-02-019. We apply this same rate to his work here.
2010 Chen hourly rate	We approved a rate of \$185 for Chen's 2010 work in A.09-02-019. We apply this same rate to her work here.
2010 Gallardo hourly rate	We approved a rate of \$350 for Gallardo's 2010 work in A.09-02-019. We apply this same rate to his work here.
DISALLOWANCES & ADJUSTMENTS	
2010-Kang hours	We disallow 0.2 hours of Kang's meeting with Bob Gnaizda on "strategy" the description is amorphous is not directly related to the work performed.
2010-Chen hours	We disallow 0.5 hours of Chen's "reading of proposed decision" as duplicative of Chen's work on the following day where compensation has been granted.
2010-Gallardo hours	We disallow 6.5 hours for Gallardo's "participation in workshop" as duplicative of other staff participation in similar workshops for whom compensation has been granted.
2010-Gallardo hours	We disallow 1.4 hours to "finalize" comments on proposed decision as subsumed into the hours already compensated for "drafting comments on the proposed decision."
2010-Gallardo	Greenlining requests 22.7 hours for Gallardo's "general preparation" hours. These

hours on “general preparation”	are hours that Greenlining is unable to allocate to a specific issue, but time that was essential for Greenlining’s participation in this proceeding. We disallow of 3.2 of Gallardo’s time spent on “general preparation” to represent proportionately the same amount of hours we have disallowed in this claim. <sup>2</sup> We make no adjustment to Kang’s or Chen’s time spent on “general preparation” as we have made minuscule disallowances to their work.
2010-Gallardo hours	We disallow 1.3 hours for “compiling” intervenor compensation requests as this is a non-compensable clerical task, subsumed into the fees paid to attorneys.
2010-Chen Compensation Preparation hours	We disallow Chen’s 0.3 hours for “reviewing NOI and Motion for late filing” as duplicative and superfluous to work performed by Gallardo.
2010-Gallardo Compensation Preparation hours	We disallow 3.5 hrs of Gallardo’s time spent on the preparation of Greenlining’s NOI and compensation request. The adjusted hours more closely represents our standards on reasonableness of hours and is equal to the same amount of time approved for other intervenors filing for compensation in this same proceeding. In addition, in Greenlining’s compensation claim filed in A.09-02-019, we cautioned Greenlining against the practice of assigning claim preparation to its most senior attorney. We provide the same admonish here. This task does not require the expertise of a senior attorney. We will disallow compensation in future claims should Greenlining continue this practice.

**PART IV: OPPOSITIONS AND COMMENTS**

**A. Opposition: Did any party oppose the claim?**

No
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**B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(c)(6))?**

Yes
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**FINDINGS OF FACT**

1. Claimant has made a substantial contribution to Decision 10-06-047.
2. The claimed fees and costs, 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 \$20,925.50.

**CONCLUSION OF LAW**

1. The claim, as adjusted herein, satisfies all requirements of Public Utilities Code §§ 1801-1812.

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<sup>2</sup> We have disallowed 14% of Gallardo’s 2010 time for reasons outlined above.

**ORDER**

1. Claimant is awarded \$20,925.50.
2. Within 30 days of the effective date of this decision, Southern California Edison Company, San Diego Gas & Electric Company, and Pacific Gas and Electric Company shall pay Claimant their respective shares of the award total award. We direct Southern California Edison Company, San Diego Gas & Electric Company, and Pacific Gas and Electric Company to allocate the payment responsibility among themselves based on their California-jurisdictional electric revenues for the 2010 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 9, 2010 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 is waived.

This decision is effective today.

Dated November 19, 2010, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
DIAN M. GRUENEICH  
JOHN A. BOHN  
TIMOTHY ALAN SIMON  
NANCY E. RYAN  
Commissioners

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

<b>Compensation Decision:</b>	D1011029	<b>Modifies Decision?</b> No
<b>Contribution Decision(s):</b>	D1006047	
<b>Proceeding(s):</b>	R0812009	
<b>Author:</b>	ALJ Timothy J. Sullivan	
<b>Payer(s):</b>	Southern California Edison Company, San Diego Gas & Electric 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>
The Greenlining Institute	8/26/10	\$26,240.00	\$20,925.50	No	Adjusted hourly rates; excessive and/or redundant 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>
Samuel	Kang	Attorney	The Greenlining Institute	\$220	2010	\$200
Stephanie	Chen	Attorney	The Greenlining Institute	\$210	2010	\$185
Enrique	Gallardo	Attorney	The Greenlining Institute	\$350	2010	\$350

**(END OF APPENDIX)**