

Decision 11-06-014 June 9, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U902M) for Approval of The SDG&E Solar Energy Project.

Application 08-07-017
(Filed July 11, 2008)

**DECISION GRANTING REQUEST OF THE GREENLINING INSTITUTE FOR
INTERVENOR COMPENSATION FOR SUBSTANTIAL CONTRIBUTIONS TO
DECISION 10-09-016**

Claimant: The Greenlining Institute	For contribution to Decision (D.) 10-09-016
Claimed (\$): \$47,856.25	Awarded (\$): \$29,407.78
Assigned Commissioner: Michael R. Peevey	Assigned ALJ: Maryam Ebke
Claim Filed: November 1, 2010	

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	The Decision adopted a 100 megawatt solar photovoltaic program (the Solar Energy Project) for San Diego Gas & Electric Company. It authorizes 26 Megawatt (MW) of utility-owned generation and 74 MW of power purchase agreements with independent energy producers.
--	--

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

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (§ 1804(a)):		
1. Date of Prehearing Conference:	10/07/2008	Correct
2. Other Specified Date for NOI:	N/A	
3. Date NOI Filed:	11/06/2008	Correct
4. Was the notice of intent timely filed?		Yes

Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	A.08-03-015	
6. Date of ALJ ruling:	05/06/2010	
7. Based on another CPUC determination (specify):		
8. Has the claimant demonstrated customer or customer-related status?		
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	A.08-03-015	See, comment 1.
10. Date of ALJ ruling:	05/06/2010	See, comment 1.
11. Based on another CPUC determination (specify):		
12. Has the claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision	D.10-09-016	Correct
14. Date of Issuance of Final Decision:	09/02/2010	September 3, 2010
15. File date of compensation request:	11/01/2010	Correct
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I (use line reference # as appropriate):

#	Claimant	CPUC	Comment
1		X	Greenlining relies on the ruling which, in turn, applied the rebuttable presumption of eligibility created more than a year prior to the commencement of this proceeding. Therefore, the reference is invalid. A valid rebuttable presumption applicable to this proceeding was created by the March 17, 2008 ruling in Application (A.) 07-11-011, Investigation (I.) 08-01-026.

PART II: SUBSTANTIAL CONTRIBUTION

A. Claimant’s description of its contributions to the final decision (see § 1802(i), § 1803(a) & D.98-04-059) :

Contribution	Citation to Decision or Record	Showing Accepted by CPUC
<p>A) <u>Program Cost, Cost-Effectiveness, and Ratepayer Benefits</u></p> <p>Argued that the cost of the project was unreasonably high for the minimal impact it would have on San Diego Gas & Electric Company’s (SDG&E) total renewable portfolio.</p> <p>See Protest (filed August 11, 2008) at p. 3; Prehearing Conference (PHC) Statement (filed October 2, 2008) at p. 2; Testimony of Orson Aguilar at pp. 1-3, 4; Comments Opposing Motion for Adoption of Joint Settlement Agreement (SA) at pp. 2-3, 8, 13.</p> <p>*****</p> <p>As to the specific question of ratepayer benefits, Greenlining cautioned that amid a devastating recession, record high unemployment levels, and the rate impact of SDG&E’s most recent general rate case, SDG&E must be particularly proactive about spelling out the direct, measureable customer benefits of the project.</p> <p>See Protest at pp. 7-8 (public participation hearings would be a valuable opportunity to speak directly to customers about the project’s benefits, and address their concerns); PHC Statement at pp. 3-4, 10-12; Testimony of Orson Aguilar at p. 13; Motion to Consolidate at pp. 4-5.</p> <p>*****</p> <p>Greenlining’s contentions regarding</p>	<p>This argument goes to several issues identified in the Scoping Memo (issued November 3, 2008), question 1(a), at p. 3, including whether the project’s cost estimates are reasonable, whether the project is cost effective, and what are the benefits to ratepayers.</p> <p>These issues were central at all stages of this rather convoluted proceeding, and Greenlining actively and consistently contributed its unique perspective on these issues throughout its participation in the proceeding.</p> <p>Specifically, D.10-09-016 rejected the SA for its potential to increase the overall cost of the program, finding that “total program cost is a major concern” (p. 16).</p> <p>The Decision also rejected the SA for requiring developers to aggregate projects into 5 MW single PPAs (p. 16).</p> <p>Further, when Greenlining did settle out of the proceeding, through an Agreement adopted between Greenlining and SDG&E, it did so because of the notable and landmark commitments SDG&E made to strive for equitable access to the economic benefits this substantial infrastructure investment would present. Greenlining believes that this agreement will produce substantial economic benefits for the communities it represents, and would</p>	<p>Yes</p>

<p>supplier diversity and the project’s economic impact on low-income communities are an important component of the ratepayer benefits issue, especially under the economic circumstances at the time of this proceeding. Infrastructure spending creates positive economic impacts, which are measureable economic benefits for someone. Greenlining contended that the degree to which the project would or would not create such benefits in SDG&E’s own service territory, and in the communities that would be most affected by the project’s rate increases, was essential to consider in evaluating the proposed project.</p> <p><i>See</i> Protest at p. 8; PHC Statement at p. 9; Testimony of Robert Gnaizda at pp. 5-7; Testimony of John Tepper Marlin; Testimony of Orson Aguilar at pp. 3, 10, 12; Comments Opposing Motion for Adoption of SA at pp. 9-11.</p> <p>*****</p> <p>A related concern regarding economic impacts arises out of the parameters established for the power purchase agreement (PPA) portion of the project. Greenlining argued that the 5 MW aggregation requirement set forth in the SA would shut out small producers (thus denying them a foothold in the growing solar economy) and keep economic growth resulting from the project isolated with already-established sectors of the solar industry, sectors not typically accessible to the constituencies whose interests Greenlining represented in this proceeding.</p> <p><i>See</i> Post Workshop Comments at pp. 4-5.</p>	<p>venture to say that SDG&E agrees.</p> <p>The agreement is attached to the <i>ex parte</i> notice filed by Greenlining on September 23, 2009.</p> <p>As such, though non-traditional in form, Greenlining’s participation in, and ultimate resolution of, this proceeding will promote exactly the kind of benefits the Commission was looking for in this proceeding, for some of the communities that need these benefits the most.</p>	
<p>B) <u>Reasonableness of the Project as Compared to Renewable Portfolio</u></p>	<p>The November 3rd Scoping Memo (pp. 3-4) set forth for consideration</p>	<p>Yes</p>

<p><u>Standard (RPS), California Solar Initiative (CSI), and Other Utility-Owned Generation (UOG) Options</u></p> <p>Argued that solar photovoltaic (PV) technology is not the most promising or cost-effective of the wide and growing range of renewable energy technologies and programs available.</p> <p><i>See</i> Protest at pp. 5-6; PHC Statement at 9-10; Testimony of Orson Aguilar at pp. 7-9; <i>Ex Parte</i> Notice filed June 17, 2009 (whether the niche toward which SDG&E directed the program was actually underutilized, and how program would fit into existing renewable energy landscape); Post Workshop Comments filed July 21, 2009 (arguing that reasonableness of the SA in comparison to other renewable projects must be considered).</p>	<p>issues of whether costs are reasonable as compared to other RPS bids, to other potential UOG projects, and to customer-owned solar under CSI. This issue was also a central theme throughout the proceeding.</p> <p>While the Commission did ultimately find that the proposed project, as amended, has a proper place in the state’s renewable energy landscape, it benefitted in its deliberations from the perspectives of parties providing a different point of view. Though Greenlining and other parties in opposition did not ultimately prevail, our participation informed the record and the Commission’s deliberative process, making for a more sound final decision.</p>	
<p>C) <u>Relationship to State and Commission Renewable Energy Policies</u></p> <p>Contended that the project, at .38% of portfolio by 2013, would make insufficient progress toward SDG&E’s RPS program goal of 20% renewable energy by 2010.</p> <p><i>See</i> Protest at pp. 4-5; PHC Statement at pp. 8-9; Comments Opposing Motion for Adoption of SA at pp. 8-9.</p>	<p>The November 3rd Scoping Memo (p. 6) solicited comment on whether the program would complement or conflict with state or Commission renewable and greenhouse gas policies.</p> <p>As part of its analysis of whether the proposed project would be cost-effective – i.e. whether it would create benefits for ratepayers, direct or indirect, that would justify its cost – Greenlining consistently assessed the contribution the proposed project would make to SDG&E’s RPS goals, and presented its assessment for the Commission’s consideration.</p> <p>While the Commission did find that the proposed project had a place in SDG&E’s pursuit of its RPS goal, it benefitted from Greenlining’s perspective in its consideration of the issue.</p>	<p>Yes</p>

<p>D) <u>The Advice Letter Process and The Proper Standard for Review</u></p> <p>Submitted that the Advice Letter process would provide insufficient regulatory oversight, particularly as proposed in the SA filed March 20, 2009.</p> <p><i>See</i> Testimony of Robert Gnaizda, pp. 3-5; Comments Opposing Joint Motion for Adoption of SA at p. 13.</p> <p>*****</p> <p>Further submitted that the SA did not offer a standard of review for evaluating the reasonableness of the proposal.</p> <p><i>See</i> Comments Opposing Joint Motion for Adoption of SA at p. 12.</p>	<p>The Nov. 3rd Scoping Memo (p. 5) called for comment on what would be the appropriate standard for review for individual projects, and whether the Advice Letter process would be appropriate for submitting individual projects for review.</p> <p>This issue was initially raised in the context of the original application, but remained ripe for consideration after the SA was introduced.</p> <p>D.10-09-016 rejected the proposed procedure of filing individual Tier 3 advice letters for each project, adopting instead a procedure for Tier 2 advice letters and pre-identified criteria to be satisfied by each individual UOG project (p. 40-41, also Conclusion of Law 6).</p>	<p>Yes</p>
<p>E) <u>Performance Guarantees and Cost Protections</u></p> <p>Greenlining was initially supportive of SDG&E’s proposal, in its original application, to cap the total cost of the program at \$250 million. Greenlining reiterated in testimony that generally speaking, costs must be controlled and performance must be guaranteed, particularly in economically challenging times.</p> <p><i>See</i> Protest at p. 2; Testimony of Orson Aguilar at pp. 12-13.</p> <p>However, Greenlining subsequently argued against setting a \$6,000/MW cap on Phase I projects (as proposed in the SA) because a cap based on cost per capacity and set at this figure would assert upward pressure on otherwise dramatically declining prices.</p> <p><i>See</i> Post Workshop Comments at p. 4.</p>	<p>The Nov. 3rd Scoping Memo (p. 5) solicited comment on whether any specific measures should be implemented to ensure performance and protect against cost overruns.</p> <p>D.10-09-016 (p. 32) rejected many of the cost elements comprising the SA’s proposed price cap, and instead adopted the same \$3.50/W cost cap as it adopted in D.09-06-049 for the project’s UOG portion. It adopted a \$235/MWh cap for PPA solicitations.</p> <p>Greenlining’s advocacy in this proceeding focused substantially on the cost and cost-effectiveness of the program. As the issue of whether and how to control costs evolved through the course of the proceeding, Greenlining offered its analysis at each step for the Commission’s consideration.</p>	<p>Yes</p>

<p>F) <u>Consolidation with A.08-03-015</u></p> <p>Argued that the project’s application should be consolidated with Southern California Edison Company’s A.08-03-015, for administrative efficiency and more consistent policy outcomes.</p> <p>See PHC Statement at pp. 5-7; Motion to Consolidate (filed October 10, 2008).</p>	<p>D.10-09-016 considered many of the same issues addressed in D.09-06-049 adopting Southern California Edison Company’s program and in D.10-04-052 adopting Pacific Gas and Electric Company’s program, including the role of these programs in the utility’s progress toward statewide renewable energy goals, the most cost-effective ownership model for PV projects, the relationship of these projects to recent legislation (Senate Bill 32 and Assembly Bill 920), and others.</p> <p>As such, Greenlining’s argument that many issues would overlap between the proceedings proved true. While the Commission ultimately rejected Greenlining’s motion, the arguments offered therein were nonetheless valid and warranted serious consideration in the proceeding.</p>	<p>Greenlining’s arguments were rejected. Its efforts directed at consolidating these proceedings did not contribute to the decision-making process. See, item 2(a) in Part III.D.</p>
<p>G) <u>Treatment of the Settlement Agreement</u></p> <p>Opposed the Settlement Agreement (SA) filed jointly by SDG&E, Utility Consumers’ Action Network (UCAN), Western Power Trading Forum, and Californians for Renewable Energy (CARE). Recommended that the Commission reject both it and the settling parties’ request to suspend proceedings.</p> <p>Specifically, argued that</p> <ol style="list-style-type: none"> 1) The SA was not reasonable in light of the whole record; it was a consensus among only select parties. 2) The SA constituted a new project, requiring a new application, new supporting testimony, and the opportunity for discovery and cross examination. The SA contained 	<p>ALJ Ebke’s June 15, 2009 Ruling Setting a Second PHC and a Workshop agreed that additional information about the SA was required in order to clarify and evaluate the SA, including the determination of whether and to what extent hearings might be necessary. It set a technical workshop and second PHC to address concerns of sufficiency of the SA for analysis by the parties and the Commission.</p> <p>The Commission issued a second Scoping Ruling on August 3, 2009, ordering a limited form of hearing regarding the SA, and more standard hearings to follow regarding issues raised in the original testimony. The Ruling acknowledged that in order to make an informed evaluation of the SA, hearings and a form of testimony on the record would be required.</p>	<p>Yes</p>

<p>insufficient information to determine whether it was legally consistent and sound public policy.</p> <p>3) The SA is still not in the ratepayers' interest, being too costly and creating too few ratepayer benefits.</p> <p>4) The SA does not address all issues set forth in the Scoping Memo, and raises new issues ripe for consideration.</p> <p><i>See Comments Opposing Motion for Adoption of SA; Ex Parte Notice filed June 9, 2009; Workshop Comments filed July 21, 2009.</i></p>	<p>D.10-09-016 ultimately rejected both the SA and the initial proposal, finding the SA to be not in the public interest, not reasonable in light of the whole record, and not consistent with the law. (D.10-09-016 at p. 2, 15-20; also Finding of Fact 14 and Conclusion of Law 4.)</p>	
--	--	--

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

	Claimant	CPUC Verified
a. Was DRA a party to the proceeding?	Yes	Correct
b. Were there other parties to the proceeding?	Yes	Correct
<p>c. If so, provide name of other parties: Californians for Renewable Energy, Utility Consumers' Action Network, Western Power Trading Forum, Coalition of California Utility Employees, The Utility Reform Network, Recurrent Energy, Inc., The Vote Solar Initiative, Pacific Gas and Electric Company, Independent Energy Producers Association, Solar Alliance, California Solar Energy Industries Association, A World Institute for a Sustainable Humanity.</p>		Yes
<p>d. Claimant's description of how Claimant coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</p> <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.</p> <p>Greenlining coordinated with the Division of Ratepayer Advocates 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</p>		Yes

reasoning in support of each differed, allowing the Commission a broader range of opinions on the issues.	
---	--

C. Additional Comments on Part II:

#	Claimant	CPUC	Comment
II.A.	X		<p>Greenlining’s participation, procedurally speaking, was unconventional and unique among the other intervenor parties. Greenlining came to a separate agreement with SDG&E in September 2009, which resolved many of Greenlining’s concerns regarding the project. Greenlining concluded its participation in the proceeding upon reaching this agreement.</p> <p>As such, though D.10-09-016 agrees with many of the positions Greenlining advanced as a party (as detailed above), the Decision does not cite Greenlining’s contributions. Of course, the Commission is free to base its decisions on whatever contributions it finds persuasive, but presumably the fact that Greenlining is not cited in the Decision is at least in part based on its withdrawal from the proceeding midway through.</p> <p>While Greenlining did not participate in analysis of the SA, it did participate actively in all phases of the proceeding leading up to it, including analysis of the original proposal and assessment of how to handle the SA in the context of the proceeding. The Decision did agree with many of the contentions offered by Greenlining with respect to these issues.</p> <p>On other issues, although ultimately Greenlining’s position did not prevail, 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 the PV project.</p>
		X	<p>Taken as a whole, Greenlining’s participation in the proceeding contributed to the decision by helping shape issues considered in this matter.</p>

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

Explanation by Claimant of how the cost of claimant’s participation bore a reasonable relationship with benefits realized through participation	CPUC Verified
It is difficult to assign a precise dollar value to Greenlining’s participation. Many, if not most, of the recommendations described in Part II above were	With the

<p>focused on the issue of program cost – reducing cost as much as possible, and ensuring that the costs that would be incurred would be justified by direct and indirect ratepayer benefits.</p> <p>How much ratepayer money these measures ultimately save will not be known until the program is built out and annual reports are analyzed. Even more difficult to quantify are some of the direct and indirect economic benefits for which Greenlining advocated. However, it is clear that our advocacy was designed to keep costs low and derive as many ratepayer benefits as possible. Given the scale of the project, the cost of Greenlining’s advocacy, as related to the total cost of the project and both the savings and positive economic impacts of our advocacy, is reasonable.</p>	<p>adjustments and reductions adopted in this decision, the subject claim is reasonable.</p>
---	--

B. Specific Claim*:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate	Basis for Rate	Total	Year	Hours	Rate	Total \$
Samuel Kang Attorney	2008	26.7	\$195	Att. A	\$5,206.50	2008	23.17	\$180	\$4,170.60
Samuel Kang Attorney	2009	14.4	\$210	Att. A	\$3,024.00	2009	4.27	\$190	\$811.30
Stephanie Chen Legal Fellow	2008	10.3	\$175	Att. A	\$1,802.50	2008	8.30	\$125	\$1,037.50
Stephanie Chen Legal Counsel, Advocate	2009	10.1	\$190	Att. A	\$1,919.00	2009	6.29	\$125	\$786.25
Elena Gil Legal Fellow	2008 Prior to December	28.90	\$175	Att. A	\$5,057.50	2008 Prior to December	19.94	\$125	\$2,492.50
Elena Gil Attorney	2008 December	55.60	\$175	Att. A	\$9,730.00	2008 December	38.37	\$175	\$6,714.75
Elena Gil Attorney	2009	105.4	\$175	Att. A	\$18,445.00	2009	70.53	\$175	\$12,342.75
				Subtotal:	\$45,184.50			Subtotal:	\$28,355.65
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate	Basis for Rate	Total \$	Year	Hours	Rate	Total \$
Sam Kang	2008	2.1	\$97.5	Att. A	\$204.75	2008	0.35	\$90.00	\$31.50
Stephanie Chen	2009	0.4	\$95	Att. A	\$38.00	2009	0.40	\$62.50	\$25.00

Stephanie Chen	2010	11.3	\$105	Att. A	\$1,186.50	2010	11.30	\$75.00	\$847.50	
Elena Gil	2008	14.20	\$87.5	Att. A	\$1,242.50	2008	2.37	\$62.50	\$148.13	
					Subtotal:	\$2,671.75			Subtotal:	\$1,052.13
					TOTAL REQUEST \$:	\$47,856.25			TOTAL AWARD \$:	\$29,407.78

* 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. Claimant'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.

** Reasonable claim preparation time typically compensated at ½ of preparer's normal hourly rate (the same applies to the travel time).

C. Additional Comments to Part III:

#	Claimant	CPUC	Description/Comment
	X		Greenlining waives claims for costs.

D. CPUC Disallowances & Adjustments:

#	Reason
1. Hourly Rates	
Hourly rate for Kang's work in 2008	Greenlining requests revisions to the previously adopted rates for Kang and Chen. We adopted a rate of \$180 for Kang's work in 2008, in D.09-06-016. Greenlining now requests a new rate of \$195. Kang was admitted to the law practice in December of 2007, ¹ and in 2008 was in his first year of practicing law. The adopted rate of \$180 was on the upper medium level of the rate range for attorneys with 0-2 years of experience (D.08-04-010 at 5). When adopting that rate, we thoroughly considered Kang's relevant experience. Greenlining provides no new information that would require us to revisit this issue and adopt a new rate for Kang in 2008. We approve the previously adopted rate of \$180 for Kang's work in 2008.
Hourly rate for Kang's work in 2009	For Kang's work in 2009, Greenlining requests the rate of \$210. In D.09-11-031, we applied 5% step increase to Kang's 2008 rate of \$180, as authorized in D.08-04-010, and adopted the rate of \$190 for his work in 2009. In 2009, Kang was in his second attorney year, with the rate range of \$150-205 (Resolution ALJ-235). Per D.08-04-010, for each individual, only one step increase of no more than 5% annually within any given level of experience is allowed (D.08-04-010 at 8 and 11-12). We have already applied the authorized step increase when we adopted the 2009 rate of \$190. We
Hourly rate for Chen's work in	

¹ D.09-06-016, at 51.

<p>2008</p> <p>Hourly rate for Chen’s work in 2009</p> <p>Hourly rate for Chen’s work in 2010</p> <p>Hourly rate for Gil’s work before December 2008</p> <p>Hourly rate for Gil’s work in December 2008 and in 2009</p>	<p>approve the same rate here.</p> <p>In D.10-10-013, we adopted the rate of \$125 for Chen’s work in 2008 when she was a Legal Fellow at the Greenlining. Greenlining requests a new rate of \$175 for Chen’s work in 2008, but provides no information justifying this new rate. We use the previously adopted rate of \$125 for Chen’s work in 2008.</p> <p>In September of 2009, Chen became a legal counsel; however, she was licensed to practice law almost a year later, in August of 2010.² Therefore, the Commission rate ranges for attorneys³ should not apply to Chen’s work in 2009. Based on our analysis of Chen’s time records we conclude that her work can be appropriately characterized as of an advocate and approve for her the advocate rate of \$125 that was adopted previously.⁴</p> <p>In 2010, Chen’s work was limited to preparing the intervenor compensation request. Considering the fact that in 2010 Chen had been a licensed attorney for several months, we set an attorney rate of \$150 for Chen’s work in 2010 or \$75 for her work on the intervenor compensation claim.</p> <p>Gil was admitted to the State Bar on December 5, 2008.⁵ About 34% of her work in 2008 was performed prior to December. We compensate these hours at the professional rate of \$125, consistent with the Legal Fellow rate adopted for Chen.</p> <p>The rest of Gil’s work in 2008 was performed in December, when she was licensed as an attorney. In D.10-10-013, we awarded an attorney rate of \$175 for Gil’s work in 2009. We approve the same rate for her hours in December of 2008 and in 2009.</p>
<p>2. Work on issues outside the scope of the proceeding.</p> <p>a. Consolidating Proceedings</p> <p>b. Supplier Diversity</p>	<p>Greenlining’s issue of consolidating the proceedings A08-07-017 and A.08-03-015 was rejected (see, Scoping Memo and Ruling at 3-6), and did not contribute to D.10-09-016. Accordingly, we disallow Greenlining’s 2009 hours spent on the motion to consolidate the proceedings (Kang: 2.1 hours; Gil – 11.6 hours). In addition, we disallow 27% of Kang’s time spent on this issue in Greenlining’s PHC statement (7.80 hours) or additional 2.1 hours.</p> <p>Another issue proposed by the Greenlining was the project’s impact on the SDG&E’s supplier diversity program and low-income energy efficiency programs. These issues were not included in the proceeding’s scope (Scoping Memo and Ruling of 11/3/08 at 7). We disallow 9.09% of Kang’s hours (7.80 hours) spent on the statement or 0.71 hour, to address these issues. We</p>

² Information about admission to attorney practice was obtained from the California State Bar Association’s website, at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

³ D.08-04-010 at 5.

⁴ D.10-05-010 at 7.

⁵ Information about admission to attorney practice was obtained from the California State Bar Association’s website, at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

c. Environmental Justice	<p>also consider this fact in our reasonableness analysis (Item 3.c.) of hours spent preparing testimony that discussed this issue.</p> <p>Gil devoted 0.40 hour (12/12 and 12/16/08) to environmental justice issues. Specific environmental justice issues were not within the proceeding's scope. This effort should not be compensated.</p>
d. Work related to the settlement between the Greenlining and SDG&E	<p>Greenlining entered, outside of the record, into a separate SA with the utility, and discontinued its participation in the proceeding. We find that to the extent the Greenlining's participation related to the settlement filed in this proceeding, the intervenor's work was productive and contributed to the decision. This work included settlement proposal, negotiations, and analysis, as well as opposition to the settlement that was reached by the parties (and rejected in D.10-09-016). However, Greenlining's effort aimed at its separate agreement with SDG&E should not be compensated as not contributing to the decision. Where it is difficult to discern what part of the Greenlining's settlement work related to its outside-the-record settlement and what part was related to the settlement in the proceeding, we disallow 50% of the time spent on the settlement-related matters, as follows: Kang: 1.7 hours; Chen: 2.3 hours; Gil: 7.35 hours (all in 2009).</p>
<p>3. Excessive hours, Unnecessary or Unproductive Effort</p> <p>a. Answers to Scoping Memo questions</p> <p>b. <i>Ex Parte</i> Communications</p> <p>c. Testimony</p>	<p>The Scoping Memo and Ruling of November 3, 2008, listed questions targeted in this proceeding. Greenlining, in addition to addressing these questions in its specific documents, devoted, separately, 35.30 hours (see, time records of 11/3/08, 12/3-12/5/08, 12/8, 12/9, and 12/10/0) answering these questions (Gil – 29 hours, plus 2.1 hours spent by Gil, Kang, and Chen, each, on the meeting discussing these questions). We disallow 14.50 hours spent on the unproductive, excessive effort in this area.</p> <p>On June 3, 2009, Greenlining filed a short notice of <i>ex parte</i> communication concerning a half an hour meeting. Gil spent 0.90 hour preparing and discussing the notice. Kang spent 0.2 hour meeting with Gil to discuss this notice. The requested compensation for this task is clearly excessive. We disallow 0.45 hour of Gil's time.</p> <p>Gil spent 3.3 hours on June 12th and 15th, 2009, preparing a letter to Commissioner Peevey, and 0.9 hour preparing a notice of the written <i>ex parte</i> communications. The letter reiterated Greenlining's position that the project needs to be as cost-effective as possible. The letter did not demonstrate time-consuming research or analysis, and the notice simply reports that the letter was mailed to Pres. Peevey. We reduce the hours by 1.6 hours (we allow 2.5 hours to write the letter and 0.1 hour to prepare the notice of <i>ex parte</i> communication).</p> <p>We analyzed testimony served by Greenlining, and conclude that the requested time for specific testimony⁶ preparation was excessive, as explained in more detail below. We note that Greenlining also charges 3.60 hours for</p>

⁶ The Greenlining submitted testimony of Robert Gnaizda, Orson Aguilar, and John Tepper Marlin, prepared by Gil and Kang. The testifying individuals do not claim hours for preparing the testimony.

	<p>testimony that is not sufficiently identified.</p> <p>A substantive part of Aguilar’s testimony consists of 8 pages of the testimony that did not contain significant analysis or data. Requesting 25.4 hours (Kang 0.5 (2008); Gil 15.5 (2008) and 9.35 (2009)) for preparing the testimony, is excessive. We reduce Gil’s hours by approximately one fourth, to reach a more reasonable amount (18.35 hours), as follows: 4.0 in 2008 and 2.5 in 2009.</p> <p>Most of Marlin’s testimony consists of general analysis of various negative effects of a utility’s rate increase in today’s economy, and only a small part (question 18) provided issue-specific input to this proceeding. The requested 9.30 hours (Kang 1.80 hours in 2009, and Gil 2.40 hours in 2008 and 5.10 hours in 2009) for this information does not reflect the actual usefulness of this document. Question 18 constitutes approximately 5% of the total number of the questions answered by Marlin (21). We allow the same percentage of the requested hours and disallow 95% of the requested hours: 7.1 hours of Gil’s hours (2.28 hours in 2008 and 4.80 hours in 2009) and 1.7 hours of Kang’s, in 2008.</p>
<p>4. Internal Communications and Unnecessary Internal Duplication of Efforts</p>	<p>We identify a number of duplicative efforts and internal communications, which should not be compensated. We discuss these in more detail, below.</p> <p>Kang’s Hours. In 2008 (October-December), Kang spent on internal discussions and meetings 4.80 hours, and 6.90 hours in 2009 (excluding hours that we already reduced in Item 2, Work on Issues Outside the Scope of the Proceeding). The fact that Kang was a managing attorney explains the need to communicate with Gil and Chen to provide necessary guidance; however, several of these meetings are reported as “strategy meetings” or regular “debriefings” after the events, which, often, all three representatives participated. We find these to be duplicative. To address our concerns, we allow two thirds of Kang’s hours spent on these communications, as necessary and productive, and disallow one third of Kang’s hours or 1.6 hours in 2008 and 2.3 hours in 2009.</p> <p>We make similar observations with regards to Chen’s and Gil’s hours. In 2008, on the internal communications Chen spent 4.70 hours, and Gil 5.80 hours. In 2009, on the internal communications Chen spent 3.55 hours and Gil spent 8.45 hours. We do not count hours that we already reduced in Items 2, above. We reduce Chen’s hours by one third, and Gil’s hours by one third, as follows: Chen (2008) 1.57 hours, and (2009) 1.18 hours; Gil (2008) 1.93 hours, and (2009) 2.82 hours.</p> <p>In addition we disallow some hours for duplication of efforts For example, Kang reviewed relevant materials, wrote a protest to the application and PHC statement, reviewed protests, responses, and statements of other parties, and prepared for and participated in, the PHC (Kang’s timesheet entries from 8/9/08 to 10/7/08). Gil charges hours for the same tasks. Kang attended the PHC. We consider Gil’s participation in the same event unnecessary. As</p>

	<p>another example of work involving duplicative efforts, Gil handled discovery and prepared discovery requests. Kang and Chen spent hours discussing and editing Gil’s work (Gil’s time records of 1/27/09, 1/29/09, 2/17/09; Chen’s time records of 1/29, 2/17, 6/2/09; Kang’s time records of 5/29/09, 6/2/09, 6/4/09, and 6/17/09). Furthermore, Gil wrote comments on the SA (4/14, 4/15/09 time records). Kang participated by editing the comments (time records of 4/15, 4/16, 4/18, and 4/20/09), which increased hours spent preparing this document.</p> <p>In an attempt to address the problem of excessive duplication of each other’s efforts, we reduce the remaining hours spent on the proceeding by additional 5%, as follows:</p> <table border="1" data-bbox="451 676 1432 993"> <thead> <tr> <th>Name</th> <th>2008 hours after reductions in Items 2 and 3</th> <th>2008 Hours after 5% disallowance from Item 4</th> <th>2009 hours after reductions in Items 2 and 3</th> <th>2009 Hours after 5% disallowance from Item 4</th> </tr> </thead> <tbody> <tr> <td>Kang</td> <td>24.39</td> <td>23.17</td> <td>4.49</td> <td>4.27</td> </tr> <tr> <td>Chen</td> <td>8.73</td> <td>8.30</td> <td>6.62</td> <td>6.29</td> </tr> <tr> <td>Gil</td> <td>61.38</td> <td>58.31</td> <td>74.24</td> <td>70.53</td> </tr> </tbody> </table>	Name	2008 hours after reductions in Items 2 and 3	2008 Hours after 5% disallowance from Item 4	2009 hours after reductions in Items 2 and 3	2009 Hours after 5% disallowance from Item 4	Kang	24.39	23.17	4.49	4.27	Chen	8.73	8.30	6.62	6.29	Gil	61.38	58.31	74.24	70.53
Name	2008 hours after reductions in Items 2 and 3	2008 Hours after 5% disallowance from Item 4	2009 hours after reductions in Items 2 and 3	2009 Hours after 5% disallowance from Item 4																	
Kang	24.39	23.17	4.49	4.27																	
Chen	8.73	8.30	6.62	6.29																	
Gil	61.38	58.31	74.24	70.53																	
<p>5. Work on Intervenor Compensation Matters</p>	<p>The Greenlining spent 16.3 hours preparing its notice of intent (NOI), which we find excessive. We note that other intervenors participating in this proceeding requested from zero (UCAN) to two (CARE) hours on the same document, and that about 83% of the Greenlining’s NOI was copied from the Greenlining’s numerous previous NOIs and the Scoping Ruling. We note that the Greenlining requests fewer hours to prepare this compensation claim. Summarizing these observations, we disallow 83% of Kang’s and Gil’s intervenor compensation hours in 2008, as follows: Kang – 1.8 hours; Gil – 11.8 hours.</p>																				

PART IV: OPPOSITIONS AND COMMENTS

<p>A. Opposition: Did any party oppose the claim?</p>	<p>No</p>
--	-----------

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

If not:

Party	Comment	CPUC Disposition
	<p>No comments were received.</p>	

FINDINGS OF FACT

1. Claimant has made a substantial contribution to D.10-09-016.
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 \$29,407.78.

CONCLUSION OF LAW

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

ORDER

1. Claimant is awarded \$29,407.78.
2. Within 30 days of the effective date of this decision, San Diego Gas & Electric Company shall pay claimant 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 January 15, 2011, the 75th day after the filing of claimant's request, and continuing until full payment is made.
3. This decision is effective today.

Dated June 9, 2011, at San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners

I abstain.

/s/ MICHEL PETER FLORIO
Commissioner

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:	D1106014	Modifies Decision?	No
Contribution Decision(s):	D1009016		
Proceeding(s):	A0807017		
Author:	ALJ Maryam Ebke		
Payer(s):	San Diego Gas & Electric Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Greenlining Institute	11/1/10	\$47,856.25	\$29,407.78	No	Adjusted hourly rates, work on issues outside the scope of the proceeding, work that did not contribute to the decision, excessive hours, unproductive effort.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Samuel	Kang	Attorney	Greenlining Institute	\$195	2008	\$180
Samuel	Kang	Attorney	Greenlining Institute	\$210	2009	\$190
Stephanie	Chen	Legal Fellow	Greenlining Institute	\$175	2008	\$125
Stephanie	Chen	Advocate	Greenlining Institute	\$190	2009	\$125
Stephanie	Chen	Attorney	Greenlining Institute	\$190	2010	\$150
Elena	Gil	Legal Fellow	Greenlining Institute	\$175	2008, Prior to December	\$125
Elena	Gil	Attorney	Greenlining Institute	\$175	2008, December	\$175
Elena	Gil	Attorney	Greenlining Institute	\$175	2009	\$175

(END OF APPENDIX)