Decision 12-01-030 January 12, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking for the Purpose of Reviewing and Potentially Amending General Order 156 and to Consider Other Measures to Promote Economic Efficiencies of an Expanded Supplier Base and to Examine the Composition of the Utilities' Workforce.	Rulemaking 09-07-027 (Filed July 30, 2009)

DECISION GRANTING INTERVENOR COMPENSATION TO THE CALIFORNIA ASIAN PACIFIC CHAMBER OF COMMERCE FOR SUBSTANTIAL CONTRIBUTION TO DECISION 11-05-019

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Appendix - Compensation Decision Summary Information

DECISION GRANTING INTERVENOR COMPENSATION TO THE CALIFORNIA ASIAN PACIFIC CHAMBER OF COMMERCE FOR SUBSTANTIAL CONTRIBUTION TO DECISION 11-05-019

1. Summary

This decision awards the California Asian Pacific Chamber of Commerce (CAPCC) $107,832 for its substantial contributions to Decision 11-05-019. This represents a decrease of $6,557.26 or 6% from the amount requested due to adjusted hourly rates, miscalculations by CAPCC, excessive hours, non-compensable travel hours and expenses, disallowance of clerical work and lack of substantial contribution. Today's award will be paid from the intervenor compensation fund, pursuant to Decision 00-01-020.

2. Background

General Order (GO) 156 was adopted by the Commission in 1986 to promote greater competition among utility suppliers by expanding the available supplier base and to encourage greater economic opportunity for women-, minority-, and disabled veteran-owned business enterprises (WMDVBEs) historically left out of utility procurement. The six largest reporting companies covered by GO 156 have vibrant outreach programs to increase participation by small and diverse businesses, and have exceeded GO 156's initial target goals. Other companies have had much less success.

The Order Instituting Rulemaking (R.) 09-07-027 issued on July 30, 2009, sought to review the impact of GO 156 and its success in encouraging Commission regulated utilities to seek the full and fair participation of WMDVBEs in their private procurement programs. The rulemaking undertook an assessment of current utility supplier diversity programs, including community-based views of their successes and failures, with the goal of

recommending actions by the parties and amendments to GO 156 that would improve results.

Decision (D.) 11-05-019 made several amendments to GO 156, some as a result of the proceeding and some to implement Assembly Bill 2758. The decision sets forth findings, recommendations, and best practices regarding utility supplier diversity programs, the role of community based organizations (CBOs), and the Supplier Clearing House.

3. Requirements for Awards of Compensation

The intervenor compensation program, set forth in Public Utilities Code Sections 1801-1812,[1] 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).)

[1] All subsequent statutory references are to the Public Utilities Code unless otherwise indicated.

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.

3.1. 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.

In a proceeding in which a PHC is held, the intervenor must file and serve its NOI between the dates the proceeding was initiated until 30 days after the PHC was held. (Rule 17.1(a)(1).) The PHC in this matter was held on February 29, 2010. Pursuant to the Scoping Memo and Ruling issued by the assigned Commissioner and Administrative Law Judge on March 17, 2010, parties were required to file an NOI by April 30, 2010. The California Asian Pacific Chamber of Commerce (CAPCC) timely filed its NOI on April 30, 2010.

In its NOI, CAPCC asserted financial hardship. On July 6, 2010, Administrative Law Judge (ALJ) Darling ruled that CAPCC meets the financial hardship condition pursuant to § 1802(g). Section 1802(b)(1) defines a

"customer" as: (A) a participant representing consumers, customers or subscribers of a utility; (B) a representative who has been authorized by a customer; or (C) a representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential or small business customers. (§ 802(b)(1)(A) through (C).) On April 30, 2010, ALJ Darling issued a ruling that found CAPCC a category 3 customer, pursuant to § 1802(b)(1)(C).)

Regarding the timeliness of the request for compensation, CAPCC filed its request for compensation, pursuant to § 1804 (c) on July 5, 2011, within 60 days of D.11-05-019 being issued.[2] No party opposed the request. CAPCC has met all of the procedural requirements necessary to make its request for compensation in this proceeding.

3.2. Financial Hardship

An intervenor seeking compensation must show that, without undue hardship, it cannot pay the reasonable costs of effective participation in the proceeding. A participant representing consumers (Paragraph A, above) or a representative authorized by a customer (Paragraph B, above) must disclose its finances to the Commission to make this showing. These showings may be made under an appropriate protective order. In the case of groups or organizations (Paragraph C, above), significant financial hardship is demonstrated by showing that the economic interest of individual members is small compared to the overall costs of effective participation. (§ 1802(g).) Such a finding is normally

[2] D.11-05-019 was issued on May 6, 2011.

made in the ALJ's preliminary ruling as to whether the customer will be eligible for compensation. (§ 1804(b).)

To qualify for a finding of significant financial hardship as a group or organization, as described in Paragraph C, above, the customer must demonstrate that effective participation in this proceeding cost well in excess of typical bills for its individual members. In order to make that finding, we need to know the cost of participation and the average bills of the members of the organization they are appearing for, as well as the financial situation of the organization.

CAPCC provided a copy of its bylaws. Section 4, subdivision 4.1 of CAPCC's bylaws provides that the objectives of the CAPCC are to promote Asian/Pacific business and community growth and development in California, by (1) promoting economic programs designed to strengthen and expand the income potential of all businesses within the service area and economic region; and (2) promoting the interests of small, Asian/Pacific and other minority-owned business customers, including electric customers, in proceedings before the California Public Utilities Commission and other state and local agencies. Based on the foregoing, CAPCC meets the definition of "customer" as defined in § 1802(b)(1)(C).

The comparison test for significant financial hardship, in which the cost of participation is compared to the economic interest of the individual members of the organization, applies to CAPCC. The organization has established that it meets the comparison test through its estimated costs of $107,000, for participation when contrasted with the small economic interest of individual members. CAPCC has established that participation without the opportunity to receive compensation would pose a "significant financial hardship."

4. 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.)

As described in § 1802(i), the assessment of whether the customer made a substantial contribution requires the exercise of judgment.

> In assessing whether the customer meets this standard, the Commission typically reviews the record, composed in part of pleadings of the customer and, in litigated matters, the hearing transcripts, and compares it to the findings, conclusions, and orders in the decision to which the customer asserts it contributed. It is then a matter of judgment as to whether the customer's presentation substantially assisted the Commission.[3]

With this guidance in mind, we turn to the claimed contributions CAPCC made to the proceeding.

Outlined below are numerous contributions to D.11-05-019 claimed by CAPCC. In addition, CAPCC has attached Exhibit B[4] to its claim for compensation which further delineates its assistance in developing the record, and informing the record:

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[3] D.98-04-059, 79 CPUC2d 628 at 653.

[4] Not attached to this decision.

Technical Assistance: CAPCC states that it was instrumental in bringing to the forefront of the Rulemaking the need to provide WMDVBEs with technical assistance.[5] These advocacy efforts for technical assistance commenced at the outset of the Rulemaking and culminated at the October 12, 2010, En Banc Diversity. At the En Banc Hearing, the CAPCC, represented by Pat Fong Kushida, introduced a joint plan with the California Hispanic Chamber of Commerce for the CPUC to adopt a centralized academy-based technical assistance program to be administered by the utilities in collaboration with the CPUC.[6] The proposal was significant and led directly to the introduction of a somewhat similar technical assistance plan by the Joint Utilities.[7] The decision adopted several findings of fact supporting the need for technical assistance, including improvements to the Supplier Clearinghouse

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[5] *See*, Opening Comments to May 5, 2010, Workshop on Underutilized Areas, April 28, 2010 at 2-3; June 7, 2010, Workshop on Barriers to Entry, Testimony of Pat Fong Kushida [raising need for technical assistance provided to CBOs]; June 23, 2010, Oral Argument (Transcript at 61:15-62:21, 95:1-99:12) [First highlighting need for coordinated technical assistance program]; CPUC Staff Report, Workshop on Barriers to Entry, June 28, 2010, at 8 [recognizing CAPCC support for centralized capacity building and technical assistance resource]; Motion of the California Hispanic Chamber of Commerce (CHCC) and CAPCC For Reconsideration of ALJ Ruling, July 20, 2010 [requesting opportunity to file technical assistance proposal]; October 12, 2010, En Banc Hearing on Diversity (Transcript at 35:5-236;23 [first proposing coordinated academy-based technical assistance program; October 29, 2010, Joint Comments on En Banc Hearing/Technical Assistance Proposal.

[6] Intervenor Compensation for work at an En Banc Hearing that is held concurrently on GO 156 is allowed pursuant to D.04-08-020 at 16-17.

[7] The Joint Utilities in this proceeding were: Southern California Edison Company, Pacific Gas and Electric Company, AT&T, Verizon, and the California Water Association.

recommended by the CAPCC. CAPCC attached this as Exhibit B to its claim for compensation. In addition, the decision included the technical assistance plan proposed by the Joint Utilities.[8] [9] The CAPCC submits that it should not be barred from compensation for its work on its own technical plan. The CAPCC states that this work was the direct catalyst for the Joint Utilities' academy-based technical assistance plan, thereby enriching the CPUC's deliberations and "materially complemented or supplemented" that plan within the meaning of § 1802.5. We agree that CAPCC made a substantial contribution to D.11-05-019 on this issue.

Reporting Requirements:

CAPCC states that it was directly responsible for the new requirements that Utilities report the total number of WMDVBE offered contracts.[10] We agree with CAPCC's contribution as outlined here.

Bid Distribution/Outreach:

CAPCC states that throughout the Rulemaking, in its comments, at workshops, and oral argument, it strongly encouraged the utilities to publish information regarding contracting opportunities and technical assistance

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[8] The CAPCC expended large amounts of time working with the utilities to synthesize the joint technical assistance proposals following the En Banc hearing.

[9] *See* Decision, Finding of Fact 1-2 at 69.

[10] *See* October 29, 2010, CHCC/CAPCC Joint Comments on En Banc Hearing/Technical Assistance Proposal at 2, fn 1; Decision, Finding of Fact 9, Conclusion of Law #3 at 70 and 74.

resources.[11] According to CAPCC, the decision acknowledged the merit of these positions, and adopted them in Findings of Fact 22, 27 and 30.[12]

In addition, CAPCC states that it argued strongly for increased collaboration between the Utilities and the CBO as the means for achieving the GO 156 procurement goals.[13] CAPCC submits that the decision acknowledged

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[11] *See* e.g., Opening Comments on May 5, 2010, Workshop on Underutilized Areas, April 28, 2010 at 2; Comments on the Utilities' Aspirational Step Plans, June 9, 2010 at 3-4 [explaining need to publicize procurement and technical assistance information on the Supplier Clearinghouse website]; June 23, 2010, Oral Argument (Transcript at 66:1-63:13; 95:19-97:15) [explaining methods for publicizing bid opportunities]; July 13, 2010, Comments on CPUC Barriers to Entry Workshop Staff Report at 2 and 4 [explaining mechanisms to disseminate procurement and technical assistance information through Supplier Clearinghouse and other means]; July 28, 2010, Reply Comments to Utility Rebuttal Remarks at 2 and 4 [defining necessity of linking businesses to procurement and technical assistance information]; August 6, 2010, Reply Comments to CPUC Barriers to Competition Staff Report at 3-6 [requesting Supplier Clearinghouse to contain bid and technical assistance information]; May 2, 2011, Joint Reply Comments on Proposed Decision at 3-4 [same].

[12] *See* D.11-05-019 at 72-73.

[13] Reply Comments on Scope of OIR, Nov. 20, 2009, at 6 [addressing need for Utilities to utilize local community based organizations]; Opening Comments to May 5, 2010, Workshop on Underutilized Areas, April 28, 2010 at 2-3 [espousing notion that Utilities should utilize CBOs as a technical assistance base]; Comments on the Utilities' Aspirational Step Plans, June 9, 2010 at 2-3 [requesting Utilities to adopt community advisory panels to foster collaboration with CBOs]; Comments on Staff Report to May 5, 2010, Workshop on Underutilized Areas, June 10, 2010 at 3 [advocating for Utilities to work with CBOs to achieve supplier diversity goals]; June 23, 2010, Oral Argument (Transcript at 68:18-69:25; 95:19-97:15; 104:14-105:8) [testifying as to methods Utilities can utilize to collaborate with CBOs]; July 13, 2010, Comments on CPUC Barriers to Entry Workshop Staff Report at 2 and 4-5 [addressing need for increased collaboration]; August 6, 2010, Reply Comments to CPUC Barriers to Competition Staff Report at 1-2 and 11-12 [addressing need and methods for collaboration].

this argument and supported this in the decision in Finding of Fact 3.[14] We agree that CAPCC's efforts on this area made a substantial contribution to the decision.

Capacity Building:

CAPCC states that within its comments and participation at the workshops and oral argument, CAPCC delineated an assortment of measures to build capacity amongst WMDVBEs that were ultimately adopted as Findings of Facts within the decision. CAPCC states these included, for example, unbundling[15] (adopted as Finding of Fact 17), pre-bid conferences[16] (adopted as Finding of Fact 24), workshops on obtaining credit[17] (adopted as Finding of Fact 16), and encouraging utilities to share experienced WMDVBEs[18] (adopted as Finding of Fact 13). We agree with CAPCC's contribution as outlined here.

5. Contribution 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

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[14] D.11-05-019 at 27-30 and 69.

[15] Opening Comments to May 5, 2010, Workshop on Underutilized Areas, April 28, 2010 at 4. Comments on Staff Report to May 5, 2010, Workshop on Underutilized Areas, June 10, 2010 at 4.

[16] CPUC Staff Report, Workshop on Barriers to Entry, June 28, 2010 at 14 [recognizing CAPCC support for pre-bid conferences].

[17] June 7, 2010, Workshop on Barriers to Entry, Testimony of Pat Fong Kushida.

[18] Opening Comments to May 5, 2010, Workshop on Underutilized Areas, April 28, 2010 at 2-3. June 23, 2010, Oral Argument (Transcript at 68:18-69:25 [explaining need for Utility/CBO collaboration]; 95:1-96:14 [explaining need for Utilities to share qualified WMDVBEs]).

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.

Regarding contributions by other parties, we agree with CAPCC that in a proceeding involving multiple participants, it is virtually impossible to completely avoid some duplication of the work of other parties. This was a wide-ranging rulemaking to review many aspects of GO 156 and the utility supplier diversity programs. The Commission reached out to many community organizations and asked for their input and assistance. Thus, it is inescapable that other intervenors may well have made substantial contributions in the same subject areas. CAPCC states that it took all reasonable steps to keep duplication to a minimum and to ensure that its work served to supplement, complement, or contribute to the showing of another active party in the proceeding, the CHCC, including jointly filing comments on the CPUC Staff Report on June 7, 2011, workshop Barriers to Entry, the En Banc Hearing on Diversity and the Proposed Decision. At the request of the ALJ, legal counsel for CAPCC and CHCC also undertook coordination with other parties to improve presentation of views at the oral argument and to jump-start a consensus on technical assistance concepts.

CAPCC states that while the issues addressed by CAPCC and CHCC were somewhat similar (e.g., increases/improvements to outreach and capacity building), the actual mechanisms themselves offered by the CHCC and CAPCC to accomplish their respective goals were clearly distinct and separate. CAPCC states that the exception to this was the Chamber's joint technical assistance plan.

We agree based on a review of CAPCC's timesheets and the fact that it filed joint comments on several occasions, that CAPCC worked with other

parties to avoid unnecessary duplication of effort. We make no reductions to CAPCC in this area of our review.

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. CAPCC's Requested Compensation and Reasonableness of Hours

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 making a substantial contribution. The issues we consider to determine the reasonableness of CAPCC's request listed below are discussed as follows:

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.

CAPCC'S Requested Compensation						
Name of Attorney/Advocate	**2009 Hours**	**2010 Hours**	**2011 Hours**	**Total Hours**	**Average $ Rate/hr**	**$ Totals**
Larry Garcia	7.3	52.5	1.2	61.0	385.20	23,497.00
- requested rates	**$385.00**	**$385.00**	**$395.00**			
Dan Silverboard	48.9	269.3	54.7	372.9	272.37	101,565.50
- requested rates	**$270.00**	**$270.00**	**$270/$295**			
David Temblador	0.0	0.8	3.5	4.3	341.28	1,467.50
- requested rates	**$310.00**	**$325.00**	**$345.00**			
Pat Fong Kushida	6.0	19.5	0.5	26.0	55.53	1,443.78
- requested rates	**$55.53**	**$55.53**	**$55.53**			
Totals	62.2	342.1	59.9	464.2	275.69	127,973.78
50% Travel credit				-22.5	152.89	−3,440.00
50% COMP credit				-45.1	281.45	−12,693.25
Adjusted totals				396.6	282.00	111,840.53
Costs						2,548.73
Total Claim						**$114,389.26**[19]

[19] We note that CAPCC's requested claim contains numerous errors. First, the total for Silverboard's hours is actually $101,566.77, making the sub-total for all participants $127,975.05, before reductions. These are minor miscalculations. Secondly, CAPCC totals all participant hours, establishes an "average" hourly rate for all four participants, then it multiplies this "group hourly rate" by its total hours. Lastly, we note that instead of placing the hours that CAPCC spent on travel and compensation matters in a separate area in its table for tasks which are compensated at ½ hourly rate, CAPCC elects instead to bill these hours at full hourly rate and then reduce by 50% these hours to arrive at its claim. Although the method is contrary to our practice, the resultant figures using this method, are the same. We note that none of the other methods that CAPCC uses are in keeping with our standard practices. We do not elect to spend the time parsing out CAPCC's claim or redoing its table. We consider the actual amount CAPCC has requested. Most importantly, CAPCC's total hours for each participant, matches its timesheets. In the award section of this claim, we use the hourly rates we adopt here and make our reductions to the hours CAPCC lists here. We discourage this practice in any future claims CAPCC may file, and highly recommend the use of the standardized forms for NOI and claim preparation available to intervenors at: http://www.cpuc.ca.gov/PUC/IntervenorCompGuide/standardized.htm. The use of the standardized forms provides the most efficient and reasonable methods to complete these tasks.

CAPCC has documented its claimed hours by presenting a daily breakdown of the percentage of its collective participants time spent on each issue. The following table outlines CAPCC's allocation of time by issue:

Allocation of Time by Issue	% Total Time
Auditing & Reporting Requirements	1.5%
Capacity Building and Contracting Mechanisms	10.2%
Compensation	19.4%
Coordination with Other Parties	1.1%
General Participation	27.0%
Outreach	9.5%
Proposed Decision	4.9%
Strategic Planning	3.1%
Technical Assistance	23.3%
Total	100.0%

The Commission has ruled on multiple occasions[20] that when an intervenor uses multiple participants to perform the same tasks or attends the same meetings and/or workshops, that the intervenor must provide the Commission with sufficient information to ensure that this work is not duplicative of each other's efforts and was essential for the intervenor's showing. Without this explanation, we find these efforts to be internally duplicative and inefficient. We list below reductions we make to CAPCC's claim for duplication of effort, excessive hours, lack of substantial contribution, disallowance of clerical work and the disallowance of non-compensable travel and related costs.

[20] *See*, for example, D.09-08-021 and D.09-09-023.

Item	Disallowances[21] [22]
2010-Garcia hours	On 5/14/10, 6/23/10 and 10/12/10, Garcia attended a workshop, oral argument and an En Banc Hearing in which CAPCC's attorney Silverboard and its expert Kushida were also in attendance. We disallow 10.2 hours of Garcia's 2010 hours for these events as being duplicative of the compensated efforts of Silverboard and Kushida.
2010-Garcia travel hours	We disallow 3.5 hrs of Garcia's 2010 professional hours for travel to and from Sacramento to San Francisco to attend various meetings and workshops.[23] The Commission awards fees and expenses for reasonable travel time but disallows compensation for time and expenses incurred during "routine travel". In D.10-11-032, the Commission further defined "routine travel" as travel that occurs with a one-way travel distance of 120 miles or less for attorneys, consultants and other experts participating in Commission matters. Travel time and expenses occurring within this parameter is considered to be "routine" in nature and non-compensable.
2010-Silverboard travel hours	We disallow 11.5 hrs of Silverboard's 2010 professional hours[24] for travel to and from Sacramento to San Francisco to attend various meetings and workshops as being non-compensable "routine

[21] Where CAPCC has combined work on several tasks into one timesheet entry and we have disallowed time related to some of these efforts, we elect to approximate the amount of time spent on each individual task by dividing the total time by the number of issues listed.

[22] We forgo our normal practice of reducing CAPCC's claim for time spent on "General" matters to be equally proportionate to the amount of hours we have disallowed since CAPCC is new to Commission proceedings, but caution CAPCC that future claims may include such reductions.

[23] CAPCC has failed to allocate its travel hours and hours for time spent on compensation matters in a separate area in its claim for hours which are billed at one-half professional rate. This is the proper way to compute the claim. Instead, CAPCC bills all of the hours for these tasks at full professional rate, then reduced these hours by 50%. To simplify the calculation of this award, we list here only ½ of the actual hours disallowed for these tasks. By using this method we achieve the same numerical totals requested by CAPCC.

[24] *See* reasoning in footnote 21.

	travel" as defined in D.10-11-032.
2010-Kushida travel hours	We disallow 3.0 hrs of Kushida's 2010 professional hours[25] for travel to and from Sacramento to San Francisco to attend the En Banc meeting at the Commission as non-compensable "routine travel" as defined in D.10-11-032.
2010-Silverboard hours	On July 13, 2010, CAPCC filed its Opening Comments on the June 7. 2010, "Barriers to Competition Workshop Staff Report". We find CAPCC's request of 8.9 hours for Silverboard's 2010 work on this document to be excessive given the scope of the work. We reduce this time by 4.9 hours to more closely reflect our standards on reasonableness of hours.
Hours spent on CAPCC's Motion of Reconsideration of ALJ's Ruling Revising Ruling on July 6, 2010	We disallow 75% of the time that CAPCC and the CHCC spent preparing a jointly filed motion for Reconsideration of Administrative Law Judge's Ruling Revising Ruling issued on July 6, 2010. On July 22, 2010, ALJ Darling issued a ruling denying this motion, except for CHCC and CAPCC's request that if the motion was denied, that in the alternative, they requested the ALJ extend the deadline for filing Reply Comments on the Barriers to Competition Workshop Staff Report. The July 22, 2010 ruling by the ALJ did approve this request. CAPCC and CHCC's efforts in this regard consisted of the last five sentences of this three-page document. Disallowances: .70 (2010) Garcia hours, 2.8 (2010) Silverboard hours.
Hours related to efforts on preparing for En Banc meeting	We allow compensation for Silverboard (attorney) and Kushida (expert) to attend the En Banc meeting on 10/12/10. We do not however, allow compensation for preparation for the En Banc, or making presentations at the En Banc as it was not proceeding-specific and would have gone forward regardless of R.09-07-027.[26]

[25] *Ibid*.

[26] Section 11 of GO 156 states that the Commission shall provide an annual report to the Legislature beginning in January, 1989, on the progress of activities undertaken by each utility to implement Public Utilities Code Sections 8281 through 8286 and GO 156, as required by § 8283(e). Section 11.3 of GO 156 states that the Commission shall hold an annual En Banc hearing or other proceeding in order to provide utilities and members of the public, including CBOs, the opportunity to share ideas and make recommendations for effectively implementing legislative policy and this general order.

	Parties were allowed to file final comments, and we compensate reasonable hours for these efforts, provided they were "limited in content to matters raised at the en banc hearing."[27] CAPCC's participation in this area provided information and argument that allowed the Commission to consider the full range of positions, thereby assisting the Commission's informed judgment based on a more complete record, as such, we compensate this time. Disallowances for Preparation for En Banc: 6.6 (2010) hrs for Garcia, 13.7 (2010) hours for Silverboard, 1.5 (2010) hrs for Kushida.
Disallowance of time spent on "filing"	Filing is a non-compensable clerical task which is subsumed in the fees paid to attorneys. We disallow 1.2 hrs of Temblador's time on 5/2/11 "finalizing and filing" CAPCC's draft reply comments.
Disallowances for meals, mileage and costs related to "routine commuting"	We disallow $123.50 of CAPCC's requested compensation for meals. The Commission does not compensate this expense.[28] We disallow $430.15 of CAPCC's requested compensation for mileage, parking fees, toll fees and BART fees incurred during "routine travel".[29] For the same reason, we disallow $147.68 of CAPCC's requested reimbursement for lodging. Total disallowances for direct expenses = $701.33
Time spent on compensation matters	CAPCC requests a total of 45.1 hours for time spent on its NOI and compensation claim. In contrast, Greenlining requested 8.4 hours for these same tasks. While we acknowledge that Greenlining has many years of experience in Commission matters, and in this case did not participate as fully as CAPCC, the disparity in hours between these intervenors calls for a significant reduction. We approve a total of 25 hrs for this task, in this instance, given CAPCC's newness to Commission proceedings and the fact that it fully participated in the proceeding. The adjusted allowance more closely reflects our standards on reasonableness of hours in addition to minimizing the cost that ratepayers should bear for to educate a new intervenor. To achieve this allotment, we reduce CAPCC's hours by the following: Disallowances: 5.6 hours of Silverboard's 2009 hours; 10.4 hours of

[27] *See* Amendment to Scoping Memo by Assigned Commissioner and Administrative Law Judge Modifying Scheduled, issued on August 26, 2010.

[28] *See* D.10-03-020, D.09-10-055 and D.07-12-040.

[29] *See* D.10-11-023.

	Silverboard's 2010 hours; and 4.1 hours of Silverboard's 2011 hours.

6.1. 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.

Larry Garcia's hourly rates: CAPCC seeks an hourly rate of $385 for Larry Garcia's 2009 and 2010 work and an hourly rate of $395 for his 2011 work in this proceeding as CAPCC's General Counsel. Garcia has no previously established rates before the Commission.

Garcia was admitted into the California Bar Association in December 1975, and has practiced law for over 35 years. Garcia's resume indicates that he is currently a partner at Gordon and Rees LLP in Sacramento, CA where his responsibilities are to counsel and represent clients in regulated business environments with a concentration in serving healthcare providers, senior living providers, and small businesses. Garcia's practice has included mergers, acquisitions, financings, commercial transactions, business structuring, and healthcare law, as well as the representation of clients before regulators. According to CAPCC, from 2000-2010, Garcia served as a shareholder in the firm of Diepenbrock Harrison, where his practice was focused in the area of hospital and healthcare law, residential care facilities for the elderly, medical group practice representation, business and corporate law and commercial transactions. CAPCC states that Garcia's experience includes representation of clients before several regulatory agencies such as the California Department of Health Services, the California Medical Board, Medicare Provider Reimbursement Board, the Joint Commission on the Accreditation of Healthcare Organizations, the Office of Inspector General for the Department of Health and Human Services, the Federal

Trade Commission, the Internal Revenue Service, the Food and Drug Administration, the Cal Mortgage Program, the California Office of Administrative Law, the Equal Employment Opportunity Commission, the California Fair Housing and Employment Commission, and the California Department of Corporations. Mr. Garcia also served on the Adjunct Faculty of Drexel University, University of Southern California, the University of California Davis Graduate School of Management, and the University of San Francisco College of Professional Studies.

CAPCC requests an hourly rate of $385 for Garcia's 2009-2010 work and an hourly rate increase of approximately 3% (assumingly for a cost-of living adjustment (COLA) increase, since CAPCC provides no justification for a step increase) to equal $395 for Garcia's 2011 work. Resolution ALJ-267 adopts a rate range of $300-$535 for attorney with 13 + years of experience. We find CAPCC's request of $385 for Garcia's work reasonable for years 2009-2010, and apply this same rate to Garcia's 2011 work as Resolution ALJ-267 disallows COLA increases for 2011 intervenor work.

Dan Silverboard's hourly rates: CAPCC requests an hourly rate of $270 for Dan Silverboard's 2009-2010 work in this proceeding and a rate ranging from ($270-$295) for Silverboard's 2011 work.[30] Silverboard has no previously established rate before the Commission.

Silverboard was admitted into the California Bar Association in December 2001. Silverboard's resume indicates that from 2002-2004 he worked as an

[30] To identify Silverboard's actual billing rate for this period, we use the dollar figures provided by CAPCC on page 9 of its compensation request and calculate the actual rate

Footnote continued on next page

attorney for the Department of Justice (DOJ) in Washington, D.C. During this time, his duties included legal research and writing for the Environmental an Natural Resources Division with a focus on issues relating to Native American tribal trust litigation and assisting DOJ attorneys in discovery. From 2004-2011, Silverboard was an attorney at Diepenbrock Harrison in Sacramento, CA. During his approximate seven years there, Silverboard's practice included representation of private sector clients in health care regulatory matters related to Medicare and Medicaid compliance, including practitioner and facility licensing and certification, reimbursement, Health Insurance Portability and Accountability Act (HIPAA), and fraud and abuse. Clients included hospitals, residential care facilities for the elderly, federally qualified health centers, and medical groups. In addition, Silverboard's practice focused on issues related to property development, including counseling clients on the acquisition of city and county land use entitlements, general planning and zoning amendments, and applicable state and federal environmental approvals. Since 2011, Silverboard has worked as an attorney for Gordon & Rees LLP in Sacramento, CA where his practice has included complex health care regulatory matters relating to Medicare and MediCal compliance, including practitioner and facility licensing and certification, reimbursement, HIPAA, Stark laws, and fraud and abuse. Clients include hospitals, federally qualified health and medical groups. Silverboard's practice at Gordon & Rees LLP includes advising clients on issues relating to land use planning and development, including facility expansion.

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billed. That rate is $286. We use this hourly rate and round it to the nearest $5.00 increment for consideration of our award.

Silverboard's work in this proceeding spanned the period of time from 10/28/09 through 7/5/2011. At the start of the proceeding, Silverboard's had slightly less than 8 years of experience as an attorney. Considering Silverboard's training and experience, we find CAPCC's requested hourly rate of $270 for Silverboard's 2009-2010 work and its hourly rate request of $285 for Silverboard's 2011 work to be reasonable and consistent with rates approved by the Commission for attorneys at both the 5-7 year and 8-12 year levels established in Resolution ALJ-267.[31] We adopt these rates as requested.

David Temblador's hourly rates: Temblador has no previous rate set before the Commission. Temblador was admitted into the California Bar Association in December 2000. Temblador was employed with the Law Offices of Gregory Thatch, in Sacramento, CA from 2001-2008. Temblador's resume indicates that he was involved in real estate development from project acquisition through entitlement approval, and when necessary, development of litigation strategies. In Temblador's role, he states that his practice focused on complex and controversial land use entitlements throughout northern California with responsibilities which included pre-acquisition due diligence, negotiation and drafting of purchase and sale agreements, research and development of

[31] We remind CAPCC because it is new to Commission proceedings that D.08-04-010 at 12-13 directs intervenors that "any request for a step increase be clearly and separately explained in the compensation request, and include a statement on whether the requested step increase is the first of second such increase for that individual within a given level of experience." CAPCC has not complied with this requirement here, but because CAPCC seeks rates for Silverboard which are reasonable and consistent with Resolution ALJ-267, we elect to apply a first 5% step-increase to Silverboard's 2011 work here. We caution CAPCC however, that it must provide this information in any future claims for compensation where a rate increase is requested. In accordance with D.08-04-010, we round Silverboard's 2011 rate to the nearest $5 increment.

entitlement strategies, entitlement processing, California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) compliance, preparation of development agreements, project litigation strategies, consultant management, community outreach efforts, media relations, project advocacy and project hearing presentations. From June 2008-2011, Temblador has worked for two years as an associate and for one year as a shareholder at the law offices of Diepenbrock Harrison in Sacramento, CA. In this role, Temblador focused on aspects of real estate development and entitlement with emphasis on the processing of complex and/or controversial land use matters, negotiation and drafting of purchase and sale agreements, research and development and entitlement strategies, entitlement processing, CEQA and NEPA compliance, project litigation strategies, consultant management, community outreach efforts, media relations, project advocacy and project hearing presentations. Temblador's work here involved minor hours in 2010 (.8) reviewing and revising CAPCC's brief, and a brief conference with Dan Silverboard and 1.75 hrs in 2011 drafting reply comments to the GO 156 Preliminary Ruling.

CAPCC requests an hourly rate of $325 for Temblador's 2010 work and an increase of approximately 6% equal to $345 for Temblador's 2011 work. In 2010, Temblador had been licensed as an attorney for 10 years. CAPCC's hourly rate request for Temblador is mid-range for attorneys with 8-12 years of experience as approved in Resolution ALJ-267. We adopt a rate of $325 for Temblador's 2010 work here. We apply this same rate to Temblador's 2011 as Resolution ALJ-267 disallows COLA increases for 2011 intervenor work.

Pat Fong Kushida's hourly rates: Pat Fong Kushida has no previously established rate before the Commission. Kushida received her Bachelor of Science degree in Business Administration with a Minor in Communications

from California State University Sacramento in 1985. Kushida is the President of the Sacramento Asian-Pacific Chamber of Commerce (SACC) organized in 1993, and is also the President of the CAPCC, which was formed in 2006. Kushida has created a web-based platform to connect small, disadvantaged business enterprises to contracts in the public and private supplier diversity contract arena. Kushida's vision in these roles is to link one of the most prominent Asian Pacific-owned business organizations to opportunities throughout the region and the State and to provide advocacy and outreach to a significant portion of California's demographics, and the over 400,000 Asian Pacific owned businesses in California. Kushida's resume indicates that this platform is currently being utilized by the California Public Utilities Commission and the Department of Transportation. According to Kushida, she has created a separate foundation to house each chamber's economic and workforce development, leadership, and education programs. In addition, Kushida's resume claims she has developed programs to help member businesses, formed collaborations with many community-based organizations on issues related to the small business community, has advocated on behalf of the chamber at the local, state and federal levels, and has developed successful ongoing fund development programs to ensure chamber viability.

CAPCC requests an hourly rates of $55.53 for Kushida's 2009-2011 work here as an advocate. We round CAPCC's requested rate to the nearest $5.00 increment[32] and approve a rate of $55 for Kushida's 2009-2011 hours. The hourly rate is reasonable and consistent with the rates approved in Resolution ALJ-267.

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[32] *See* D.08-04-010 at 13.

6.2. Direct Expenses

CAPCC's itemized direct expenses include the following:

Direct Expenses	Total $
Express Mail/Postage	65.45
Photocopy	55.60
Conference Call Services	29.95
Computer Research (Lexis/Nexis)	565.70
Mileage Reimbursement	811.27
Travel Expenses (Air Fare to Workshops in LA, Parking and Tolls to attend CPUC meetings, Lodging)	759.85
Facsimile Charges	16.00
Hearing Transcripts	112.00
Copy Charges – Outside Service	132.91
Total Requested Direct Expenses	**$2,548.73**
Disallowances for meals and routine travel costs	**−$701.33**[33]
Adjusted Compensation for Direct Expenses	**$1,847**[34]

After the disallowances of meals[35] and costs related to routine commuting,[36] the remaining the miscellaneous expenses are reasonable and commensurate with the work performed.

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[33] *See* footnote 34 below.

[34] Rounded to nearest dollar amount.

[35] *See* D.10-03-020, D.09-10-055 and D.07-08-021.

[36] The Commission awards fees and expenses for reasonable travel time but disallows compensation for time and expenses incurred during "routine travel". In D.10-11-032, the Commission defined "routine travel" as travel that occurs with a one-way travel distance of 120 miles or less for attorneys, consultants and other experts participating in

Footnote continued on next page

7. 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.

CAPCC states that it's difficult to assign a dollar value to its participation in this rulemaking which was focused on the benefits achieved through increased diversity. In addition, CAPCC submits that its contributions to the D.11-05-019 will increase the success of the GO 156 program and overall procurement from WMDVBE businesses by the Utilities. Since the decision specifically sets forth measures that will increase transparency in the program, increase education and outreach to WMDVBE's and increase methods by which to include qualified WMDVBEs through capacity-building mechanisms, CAPCC argues that the magnitude of the benefits resulting from the decision to WMDVBE's, including those represented by CAPCC, could easily be on the order of billions of dollars, including intangible economic benefits that come with increasing diversity in procurement. As a result, CAPCC submits that its work in this proceeding should be expected to save ratepayers many times the cost of its participation.

Commission matters. Travel time and expenses occurring within this parameter are considered to be "routine" in nature and non-compensable. CAPCC was represented by attorneys from the law offices of Gordon & Rees LLP and advocate Pat Fong Kushida, all of whom travelled from Sacramento, CA. The one-way travel distance for these individuals, was less than 120 miles.

Since diversifying the supply chain results in local and statewide economic stimulus and job creation, particularly with respect to communities of color, the ratepayer savings along with these economic benefits are likely to exceed the cost of CAPCC's participation in the proceeding. After the adjustments and disallowances we have made to this claim, we find that CAPCC's efforts have been productive.

8. Award

As set forth in the table below, we award CAPCC $106,258.

Work on Proceeding				
Attorney/Staff	**Year**	**Hours**	**Hourly Rate $**	**Total $**
Larry Garcia	2009	7.3	385	2,811
Larry Garcia	2010	31.5	385	12,128
Larry Garcia	2011	1.2	385	462
Dan Silverboard	2009	43.4	270	11,718
Dan Silverboard	2010	217.1	270	58,617
Dan Silverboard	2011	50.7	285	14,450
David Temblador	2010	.8	325	260
David Temblador	2011	2.3	325	748
Pat Fong Kushida	2009	6.0	55	330
Pat Fong Kushida	2010	15.0	55	825
Pat Fong Kushida	2011	.5	55	28
Work on Proceeding Total[37]:				**$102,377**
Travel and Preparation of NOI and Compensation Request[38]				

[37] We have reviewed the hours that CAPCC has labeled as "outreach", as we typically disallow these efforts because they occur off the record and do not assist the Commission in making a "substantial contribution" to the decision as required by statute. Here, we find that the hours CAPCC has identified as "outreach" were in fact procedurally related and are subject to compensation since they have met our standards of review on reasonableness.

[38] These tasks are compensated at ½ professional rate.

Attorney/Staff	Year	Hours	Hourly Rate $	Total $
Dan Silverboard	2009	2.0	135.00	$ 270
Dan Silverboard	2011	21.8	142.50	$3,107
Larry Garcia	2011	1.2	192.50	$231
NOI and Compensation Request Total:				**$3,608**
CALCULATION OF FINAL AWARD				
Work on Proceeding				**$102,377**
NOI and Compensation Request Preparation				**$3,608**
Expenses				**$1,847**
TOTAL AWARD				**$107,832**[39]

Since this rulemaking proceeding affects a broad array of utilities and others in the telecommunications field, we find it appropriate to authorize payment of today's awards from the Commission's intervenor compensation program fund, as described in D.00-01-020.

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. CAPCC'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.

[39] Rounded to nearest dollar amount.

9. Waiver of Comment Period

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

10. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner, and Melanie M. Darling is the assigned ALJ in this proceeding

Findings of Fact

1. CAPCC has satisfied all the procedural requirements necessary to claim compensation in this proceeding.
2. CAPCC made a substantial contribution to D.11-05-019 as described herein.
3. CAPCC requested hourly rates for its representatives that, as adjusted herein, are reasonable when compared to the market rates for persons with similar training and experience.
4. CAPCC requested related expenses, as adjusted herein, that are reasonable and commensurate with the work performed.
5. The total of the reasonable compensation is $107,832.
6. Appendix to this decision summarizes today's award.

Conclusions of Law

1. CAPCC has fulfilled the requirements of §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its claimed expenses incurred in making substantial contributions to D.11-05-019.
2. CAPCC should be awarded $107,832 for its contribution to D.11-05-019.

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

O R D E R

IT IS ORDERED that:

1. California Asian Pacific Chamber of Commerce is awarded $107,832 as compensation for its substantial contributions to Decision 11-05-019.

2. Within 30 days of the effective date of this decision, California Asian Pacific Chamber of Commerce's award shall be paid from the intervenor compensation program fund, as described in Decision 00-01-020. 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 July 5, 2010 , the 75th day after the filing date of California Asian Pacific Chamber of Commerce's request for compensation, and continuing until full payment is made.

This order is effective today.

Dated January 12, 2012, 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:	D.12-01-030	**Modifies Decision?** No
Contribution Decision:	D.11-05-019	
Proceeding:	R.09-07-027	
Author:	ALJ Melanie M. Darling	
Payee:	The CPUC's Intervenor Compensation Fund	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier ?	Reason Change/Disallowance
California Asian Pacific Chamber of Commerce	07-05-11	$114,389.26	$107,832	No	adjusted hourly rates, miscalculations by CAPCC, excessive hours, non-compensable travel hours and expenses, disallowance of clerical tasks, and lack of substantial contribution

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Larry	Garcia	Attorney	California Asian Pacific Chamber of Commerce	$385	2009	$385
Larry	Garcia	Attorney	California Asian Pacific Chamber of Commerce	$385	2010	$385
Larry	Garcia	Attorney	California Asian Pacific Chamber of Commerce	$395	2011	$385
Dan	Silverboard	Attorney	California Asian Pacific Chamber of Commerce	$270	2009	$270
Dan	Silverboard	Attorney	California Asian Pacific Chamber of Commerce	$270	2010	$270
Dan	Silverboard	Attorney	California Asian Pacific Chamber of Commerce	$286	2011	$285
David	Temblador	Attorney	California Asian Pacific Chamber of Commerce	$325	2010	$325

David	Temblador	Attorney	California Asian Pacific Chamber of Commerce	$345	2011	$325
Pat	Kushida	Advocate	California Asian Pacific Chamber of Commerce	$55.53	2009	$ 55
Pat	Kushida	Advocate	California Asian Pacific Chamber of Commerce	$55.53	2010	$ 55
Pat	Kushida	Advocate	California Asian Pacific Chamber of Commerce	$55.53	2011	$ 55

(END OF APPENDIX)