

Decision 09-01-031 January 29, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement the Commission's Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emissions Standards into Procurement Policies.

Rulemaking 06-04-009
(Filed April 13, 2006)

**DECISION GRANTING INTERVENOR COMPENSATION
TO COMMUNITY ENVIRONMENTAL COUNCIL FOR SUBSTANTIAL
CONTRIBUTIONS TO DECISION 07-01-039 AND DECISION 07-09-017
AND DENYING COMPENSATION FOR DECISION 07-05-063**

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APPENDIX A - Compensation Decision Summary Information

**DECISION GRANTING INTERVENOR COMPENSATION
TO COMMUNITY ENVIRONMENTAL COUNCIL FOR SUBSTANTIAL
CONTRIBUTIONS TO DECISION 07-01-039 AND DECISION 07-09-017
AND DENYING COMPENSATION FOR DECISION 07-05-063**

This decision awards \$34,206.05 in compensation to the Community Environmental Council (CE Council) for its substantial contributions to Decision (D.) 07-01-039 and D.07-09-017, and denies CE Council's request for compensation related to D.07-05-063. This represents a decrease of \$4,767.50 from the amount requested due to a lack of substantial contribution on the issue of lifecycle net emissions, failure to justify the contribution of CE Council's research associate, and failure to justify certain expenses. This proceeding remains open.

1. Background

On April 17, 2006, the Commission issued this rulemaking to implement the load-based greenhouse gas emissions (GHG) cap adopted by D.06-02-032 and to examine whether a GHG emissions performance standard (EPS) should be integrated into that framework. Under a load-based cap, electric utilities are subject to GHG emission limits for all resources procured to serve their load, no matter from what source, including imports. A GHG EPS is similar to an energy efficiency appliance standard, but would apply to utilities' new long-term commitments to generation facilities, including power purchases. The standard would establish the maximum GHG emissions rate (pounds of emissions per megawatt-hour) for such commitments. Phase 1 of this rulemaking was designated as the forum to consider whether the Commission should adopt an interim EPS to guide electric procurement decisions while it took the steps

necessary to fully implement D.06-02-032 and, if so, how that interim EPS should be designed and implemented to serve this purpose.

The assigned Commissioner proceeded to solicit pre-workshop comments on these Phase 1 issues, and Commission staff held workshops to obtain further input from interested parties before formulating preliminary recommendations to the Commission. Shortly after staff issued its Phase 1 draft report and recommendations, Governor Schwarzenegger signed Senate Bill (SB) 1368 into law. Among other things, SB 1368 directed this Commission to fully implement an EPS by February 1, 2007, for all load-serving entities within Commission jurisdiction. It also specified certain design elements of the GHG performance standard and associated definitions. The Commission designated this rulemaking as the procedural forum for implementing SB 1368 and solicited legal briefs and further comment from parties on the staff final report recommendations and related EPS implementation issues. The Commission issued D.07-01-039 on January 29, 2007, which adopted all the design and implementation parameters required to enforce an EPS by the statutory deadline. On May 24, 2007, the Commission adopted D.07-05-063 which denied CE Council's Application for Rehearing filed on February 23, 2007. D.07-08-009 denied a petition for modification of D.07-01-039, but clarified how the adopted cogeneration thermal credit methodology will be applied to bottoming-cycle cogeneration. Two other petitions to modify D.07-01-039 are pending.

In the same Order Instituting Rulemaking (OIR) initiating Rulemaking (R.) 06-04-009, the Commission provided that Phase 2 would be used to implement a load-based GHG emissions cap for electricity utilities, as adopted in D.06-02-032 as part of the procurement incentive framework, and also would be

used to take steps to incorporate GHG emissions associated with customers' direct use of natural gas into the procurement incentive framework.

On September 27, 2006, Governor Schwarzenegger signed into law Assembly Bill (AB) 32, "The California Global Warming Solutions Act of 2006." This legislation requires the California Air Resources Board (ARB) to adopt a GHG emissions cap on all major sources in California, including the electricity and natural gas sectors, to reduce statewide emissions of GHGs to 1990 levels.

We held a prehearing conference (PHC) in Phase 2 on November 28, 2006. The Phase 2 scoping memo, which was issued on February 2, 2007, determined that, with enactment of AB 32, the emphasis in Phase 2 should shift to support implementation of the new statute. Because of the need for "a single, unified set of rules for a GHG cap and a single market for GHG emissions credits in California," the Phase 2 scoping memo provided that "Phase 2 should focus on development of general guidelines for a load-based emissions cap that could be applied . . . to all electricity sector entities that serve end-use customers in California,"¹ including both investor-owned utilities (IOUs) that the Commission regulates and publicly owned utilities.

As detailed in the Phase 2 scoping memo, this Commission and the California Energy Commission undertook Phase 2 on a collaborative basis, through R.06-04-009 and Docket 07-OIIP-01, respectively, to develop joint recommendations to ARB regarding GHG regulatory policies as it implements AB 32.

¹ Phase 2 scoping memo, *mimeo.* at 8.

The Phase 2 scoping memo noted that the policies in D.06-02-032 were adopted prior to passage of AB 32. It placed parties on notice that, in the course of Phase 2, the Commission might adopt policies that would modify portions of D.06-02-032 as a result of AB 32, subsequent actions by ARB, or the record developed in the course of this proceeding.²

AB 32 requires that, on or before January 1, 2008, ARB adopt regulations to require the reporting and verification of statewide GHG emissions and to monitor and enforce compliance with the program. (Section 38530(a).) The statute specifies that “statewide GHG emissions” includes the total annual emissions of GHG gases in the state. (Section 38505(m).) While certain language in AB 32 focuses on “electricity consumed in the state,” we interpret the statutory definition of “statewide GHG emissions” to include emissions from electricity generated in California and exported from the state, in addition to electricity consumed in the state.

On April 19, 2007, the Public Utilities Commission and the Energy Commission held a symposium which addressed linking GHG cap-and-trade systems. Reporting issues were also discussed.

The Public Utilities Commission and the Energy Commission jointly held a workshop on April 12 and 13, 2007, that addressed GHG reporting and verification issues, among other subjects. Based on information presented at that workshop, subsequent ARB workshops, and existing reporting protocols of the Energy Commission and the California Climate Action Registry, staff from the two agencies (Joint Staff or Staff) developed a Joint Staff proposal for an

² *Id.*, *mimeo.* at 10-11.

electricity retail provider GHG reporting protocol. Pursuant to a June 12, 2007 ruling by the Administrative Law Judges (ALJs), parties were invited to comment on the Joint Staff proposal. The ALJ ruling also asked parties to comment, among other things, on whether modifications to the Joint Staff reporting proposal would be needed to support a deliverer/first-seller GHG regulatory structure for the electricity sector.

In D.06-02-032, the Public Utilities Commission stated an intent to apply a load-based GHG emissions cap to the three major IOUs, and also to Community Choice Aggregators (CCAs) and Electric Service Providers (ESPs) operating within the service territory of the three major IOUs. In D.06-10-020 amending the OIR, the Public Utilities Commission specified that, with the passage of SB 1368, all ESPs, all CCAs, and all electrical corporations, including all IOUs, multi-jurisdictional utilities, and electric cooperatives, are respondents to this rulemaking. The Phase 2 scoping memo specified that Phase 2 would address whether the load-based GHG emissions cap should apply to the additional respondents added by D.06-10-020.

As Phase 2 has progressed, the Public Utilities Commission has modified the scope of Phase 2 through D.07-05-059 and D.07-07-018 amending the OIR.³ D.07-05-059 specified that Phase 2 should be used to develop guidelines for a load-based GHG emissions cap for the entire electricity sector and recommendations to ARB regarding a statewide GHG emissions limit as it

³ On December 21, 2007, the assigned Commissioner issued a ruling modifying the Phase 2 scoping memo to specify the manner in which natural gas issues raised in the OIR and the issues added by D.07-05-059 and D.07-07-018 would be considered in Phase 2.

pertains to the electricity and natural gas sectors. To that end, D.07-05-059 also expanded the natural gas inquiry in Phase 2 to address GHG emissions associated with the transmission, storage, and distribution of natural gas in California, in addition to the use of natural gas by non-electricity generator end-use customers as originally contemplated in the OIR. The list of respondents to this proceeding was amended to include all investor-owned gas utilities, including those that provide wholesale or retail sales, distribution, transmission, and/or storage of natural gas.

D.07-07-018 amended the OIR further to provide for consideration in Phase 2 of issues raised by and alternatives considered in the June 30, 2007 Market Advisory Committee report entitled, "Recommendations for Designing a Greenhouse Gas Cap-and-Trade System for California," to the extent that they were not already within the scope of Phase 2. Thus, D.07-07-018 provided for consideration of alternatives to a load-based cap for the electricity sector, a deviation from the policies adopted in D.06-02-032.

By ALJ rulings, parties were asked to submit comments and legal briefs on issues raised by the Market Advisory Committee report. On August 21, 2007, the Public Utilities Commission and the Energy Commission held a joint en banc hearing addressing the type and point of GHG regulation in the electricity sector, including alternatives to a load-based cap-and-trade approach. In an ALJ ruling issued on November 9, 2007, parties were provided an opportunity to file additional comments on issues regarding the type and point of regulation for the electricity sector.

By ALJ ruling dated July 12, 2007, parties were asked to file comments on preliminary recommendations of the Public Utilities Commission staff regarding the regulatory treatment of GHG emissions in the natural gas sector. The staff

paper attached to the ALJ ruling identified and discussed various policy issues associated with developing regulations to control GHG emissions in the natural gas sector. A prehearing conference was held on August 2, 2007, to address the manner in which regulation of GHG emissions in the natural gas sector should be considered in this proceeding. By ALJ ruling dated November 28, 2007, parties were asked to file comments on the approach to GHG regulation that would be appropriate for the natural gas sector.

Phase 2 also addressed how to distribute annual emissions allowances under a cap-and-trade mechanism to individual entities, to the extent appropriate, and how such a process should be administered. An October 15, 2007, ALJ ruling requested comments on allowance allocation issues, and a workshop was held on this topic on November 5, 2007.

As part of our Phase 2 analysis, the Public Utilities Commission hired a consultant to conduct detailed modeling of the electricity sector impacts of potential GHG emissions cap scenarios. The modeling analysis took into account the policy options developed in other portions of the proceeding in order to analyze various options for cap design and implementation for the electricity sector. The consultants also considered the natural gas sector in their modeling process. However, separate, detailed modeling of the natural gas sector was not undertaken. The modeling effort examined the level and costs of emission reductions that can be achieved by the electricity and natural gas sectors before the 2020 deadline set by AB 32. It also addressed the rate at which these types of reductions can be achieved, which informed our recommendations for annual emissions goals for the electricity and natural gas sectors. A November 9, 2007 ALJ ruling requested comments on modeling-related issues and on a staff paper

on emission reduction measures. A workshop on input assumptions and initial model results was held on November 14, 2007.

On September 6, 2007, the Public Utilities Commission adopted D.07-09-017 that recommended to ARB proposed regulations as reporting and verification requirements applicable to retail providers and marketers in the electricity sector. Today's decision addresses CE Council's requests for compensation associated with D.07-01-039, D.07-05-063, and D.07-09-017. Compensation requests associated with subsequent decisions will be addressed separately.

2. Requirements for Awards of Compensation

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

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

1. The intervenor must satisfy certain procedural requirements including the filing of a sufficient notice of intent (NOI) to claim compensation within 30 days of the PHC, or in special circumstances at other appropriate times that we specify. (§ 1804(a).)
2. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)

3. The intervenor 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), 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. (§§ 1802(i), 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).

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

3. Procedural Issues

The PHC in Phase 1 was held on May 10, 2006 and Phase 2 PHCs were held on November 28, 2006, and August 2, 2007. CE Council filed its NOI on December 20, 2006. The NOI was timely filed for work conducted in Phase 2, but did not meet the 30-day filing requirement for Phase 1. In an April 6, 2007 ALJ’s ruling, CE Council’s NOI was accepted as timely. In its NOI, CE Council asserted financial hardship.

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. On April 6, 2007, the

assigned ALJs ruled that CE Council is a customer pursuant to § 1802(b)(1)(C), and meets the financial hardship condition, pursuant to § 1802(g).⁴

Pursuant to email correspondence with the ALJ, CE Council filed its request for compensation (Request) on October 24, 2007 and revised its Request on October 31 and November 1, 2007 for work related to D.07-01-039, D.07-05-063 and D.07-09-017. No parties oppose CE Council's Request.

In view of the above, we find that CE Council has satisfied all the procedural requirements necessary to make its request for compensation in this proceeding.

4. Substantial Contribution

In evaluating whether a customer made a substantial contribution to a proceeding we consider whether the ALJ or Commission adopted one or more of the factual or legal contentions, or specific policy or procedural recommendations put forward by the customer. (*See* § 1802(i).) If the customer's contentions or recommendations paralleled those of another party, we consider whether the customer's participation materially supplemented, complemented, or contributed to the presentation of the other party or to the development of a fuller record that assisted the Commission in making its decision.

(*See* §§ 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

⁴ *Administrative Law Judge's Ruling Granting Notices of Intent to Claim Compensation*, July 10, 2006 in R.06-04-009.

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.⁵

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

CE Council participated in Phase 1 of this proceeding by submitting detailed legal comments, comments and reply comments on the proposed decision in Phase 1, and filing an Application for Rehearing on whether the Commission needed to consider the lifecycle emissions of liquefied natural gas imports.

While not all of CE Council's positions were adopted by D.07-01-039, we find that CE Council made a substantial contribution via a thorough analysis of other parties' assertions that the Commerce Clause of the United States Constitution and general preemption law make it illegal for the Commission to adopt an EPS. In D.07-01-039, we concluded, for many of the same reasons raised by CE Council, it was legal and good public policy to adopt an EPS.

Although we find that CE Council made a substantial contribution to D.07-01-039, CE Council did not prevail on its argument that the Commission should undertake a lifecycle net emissions analysis to determine compliance with SB 1368 which requires the Commission to adopt an EPS. We rejected CE Council's contention because it was not raised during the scoping of Phase 1 and even if it were, the Commission did not have sufficient record to take this approach for the EPS. (D.07-01-039, pp. 189-190.) CE Council filed an

⁵ D.98-04-059, 79 CPUC2d 628 at 653.

Application for Rehearing of D.07-01-039, which was considered and denied in D.07-05-063.

We find that CE Council did not make a substantial contribution to D.07-01-039 with respect to the lifecycle net emissions issue identified in the previous paragraph and did not make a substantial contribution to D.07-05-063 for the same reason. We will adjust the amount awarded to CE Council accordingly.

CE Council participated in Phase 2 of this proceeding by attending the Phase 2 PHC on November 28, 2006 and subsequent workshops and by filing several rounds of written pleadings on Phase 2 issues, including: PHC statement, opening comments on staff's draft GHG emissions reporting and verification proposal, and opening and reply comments on letters filed by the State of Oregon and Washington. As summarized in the Request, CE Council's participation in Phase 2 made substantial contributions to D.07-09-017 providing detailed comments on issues relating to GHG reporting for unspecified sources of imported electricity. CE Council urged the Commission to reject staff's methodology for calculating the default rate for GHG emissions from unspecified imported sources and instead adopt a higher, interim default emission rate. In D.07-09-017, we adopted a default emission rate substantially above staff's recommendation. In a few instances where CE Council did not prevail on an issue, we find that CE Council substantially contributed to the development of a more complete record that assisted the Commission in reaching its determinations. In its comments, CE Council identified several sources of GHG emissions not included in staff's proposed methodology. While some of CE Council's suggestions applied to ARB's GHG emissions inventory methodology, we find that CE Council's analysis highlighted that further work

on reporting protocols for the electricity sector is needed. In D.07-09-017, the Commission recommended that comprehensive review of GHG reporting requirements for the electricity sector be undertaken in 2010.

The Commission has awarded full compensation even where the intervenor's positions were not adopted in full, especially in proceedings with a broad scope. (D.98-04-028, 79 CPUC2d 570, 573-574.) As described above, while CE Council only prevailed on one issue, in the areas where we did not adopt CE Council's position in whole or in part, we benefited from CE Council's analysis and discussion of all of the issues which it raised. We find that CE Council's participation substantially contributed to D.07-09-017.

5. Contributions of Other Parties

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

We note that some amount of duplication is unavoidable on all sides of contentious issues in a proceeding with such a broad scope. However, by focusing its comments on issues to which it could present unique analysis or arguments and coordinating filings when possible, we find that CE Council took reasonable steps to avoid duplication to the extent possible, and to complement and assist the work of other parties.

6. Reasonableness of Requested Compensation

CE Council requests \$38,973.25 for its participation in this proceeding leading to D.07-01-039, D.07-05-063, and D.7-09-017, as follows:

Work on Proceeding				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Tamlyn Hunt				
Regular hours in 2006	2006	76.25	\$210	\$16,012.50
Travel hours in 2006	2006	4.5	\$105	\$ 472.50
Regular hours in 2007	2007	53.5	\$280	\$14,980.00
Travel hours in 2007	2007	12.75	\$140	\$ 1,785.00
Research Associate	2007	5	\$ 75	\$ 375.00
Subtotal:				\$33,625.00
Preparation of NOI and Compensation Request				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Tamlyn Hunt				
	2007	7.75	\$140	\$ 1,085.00
Subtotal Hourly Compensation:				\$34,710.00
Expenses				\$ 4,263.55
Total Requested Compensation				\$38,973.55

In general, the components of this request must constitute reasonable fees and costs of the customer's preparation for and participation in a proceeding that resulted in a substantial contribution. The issues we consider to determine reasonableness are discussed below.

6.1. Hours and Costs Related to and Necessary for Substantial Contribution

We first assess whether the hours claimed for the customer's efforts that resulted in substantial contributions to Commission decisions are reasonable by determining to what degree the hours and costs are related to the work performed and necessary for the substantial contribution. CE Council believes that the total number of hours claimed is reasonable given the scope of this proceeding and the complexity of the issues. With two exceptions, we agree.

The first exception concerns time spent by CE Council on the issue for which it failed to make substantial contribution (*i.e.*, lifecycle net emissions). We conclude that CE Council should not be compensated for the costs it incurred with respect to this issue and we reduce CE Council's award by twelve hours to reflect work on reply comments on the proposed decision in Phase 1 and subsequent Application for Rehearing. In its request, CE Council did not provide a description of the work performed by Research Associate Megan Birney or her qualifications, thus failing to justify a substantial contribution or an appropriate hourly rate. We deduct the Research Associate costs from CE Council's award.

We have noticed that CE Council often combines in the same timesheet entry work on the proceeding with the work on intervenor compensation matters or clerical tasks (for example, 1.5 hours on October 11, 2006, were spent, as follows: "Complete NOI; correspond with ALJ, and review legal briefs;" 4.5 hours on 11/1/2006 are reported, as follows: "Complete and file commerce clause comment and NOI"). This practice violates the provisions of Rule 17.4 as well as the Commission's decisions setting guidelines for intervenor compensation matters (*see*, for example, D.98-04-059, p. 51).

To reflect our practices of compensating work on intervenor compensation matters at the lower hourly rate, and of disallowing clerical time, we reduce by 3.5 hours of Hunt's time in 2006 and .5 hours in 2007.

6.2. Hourly Rates

We next consider 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.

In D.07-07-012, the Commission approved an hourly rate for Hunt of \$210 for 2006. CE Council's Request includes work performed during 2006 and 2007 in support of three decisions. Since we previously adopted this 2006 rate for Hunt, we approve its use here, as requested by CE Council.

CE Council requests Hunt's 2007 hourly rate of \$280.00. This represents more than a 33% increase from his 2006 rate. D.07-01-009 allows the following annual hourly rate increases for attorneys with recently adopted rates: 3% cost-of-living adjustment and 5% step increase (*see*, D.07-01-009, pp. 5-6). However, Hunt has moved ranges and now falls in the range of practitioners with five to seven years of experience, and we approve the requested rate. CE Council proposes Hunt's rate for 2007 be set at \$280 hour to reflect the mid-point in the range of rates approved by D.07-01-009 for attorneys with five to seven years of experience. The proposed rate for 2007 is consistent with the guidelines set forth in D.07-01-009, and is adopted here.

6.3. Productivity

D.98-04-059 directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. The costs of a customer's participation should bear a reasonable relationship to the benefits realized through their participation. This showing assists us in determining the overall reasonableness of the request.

CE Council emphasis in this proceeding has been to provide legal analysis of the EPS and to aid in the Commission's understanding of reporting and verification of GHG emissions in California and on a regional basis. It concedes it cannot identify precise monetary benefits to ratepayers. However, CE Council claims its focus on policies that ensure a comprehensive and enforceable EPS and accurate and verifiable GHG emissions reporting protocol should have lasting

benefits to ratepayers. We agree that to the extent these policies reduce GHGs and aid in achieving the goals of AB 32, ratepayers benefit monetarily. We also agree that these programs, improved through CE Council's participation, have other social benefits which, though hard to quantify, are substantial. Thus, we find that CE Council's efforts have been productive.

6.4. Direct Expenses

The itemized direct expenses submitted by CE Council include the following:

Westlaw Charges	\$2,677.50
Cory Briggs (review of CE Council's filings)	\$ 157.50
Travel	\$1,428.55
Total Expenses	\$4,263.55

The cost breakdown included with the request shows the miscellaneous expenses to be commensurate with the work performed with one exception. CE Council failed to explain the \$157.50 expense associated with Cory Briggs' review of CE Council's filings. We will deduct this expense from CE Council's award. All the remaining costs are reasonable.

We note, however, that CE Council failed to itemize its travel expenses, in violation of Rule 17.4, providing only a general description "air and hotel expenses" (Amended Request of November 1, 2007, p. 21). This time, we award the requested amount, however, in the future, CE Council shall itemize its expenses or we will disallow costs that are not itemized.

7. Award

As set forth in the table below, we award \$34,206.05 to CE Council:

AWARD				
Attorney	Year	Hours	Rate	Total
Work on Proceeding				
Tamlyn Hunt	2006	72.75	\$210.00	\$15,277.50
Tamlyn Hunt	2007	41.00	\$280.00	\$11,480.00
Subtotal				\$26,757.50
Work on Intervenor Compensation Matters				
Tamlyn Hunt	2007	7.75	\$140.00	\$ 1,085.00
Travel				
Tamlyn Hunt	2006	4.50	\$105.00	\$ 472.50
Tamlyn Hunt	2007	12.75	\$140.00	\$ 1,785.00
Subtotal				\$ 2,257.50
Other Costs				
Westlaw				\$ 2,677.50
Travel				\$ 1,428.55
Subtotal:				\$ 4,106.05
Total Award				\$34,206.05

Consistent with previous Commission decisions, we order that interest be paid on the award amount (at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15) commencing on January 15, 2008, the 75th day after CE Council filed its compensation request, and continuing until full payment of the award is made.

This rulemaking proceeding affected a broad array of utilities and other load-serving entities in energy field. As such, 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. CE Council's records should identify specific issues for which it requested compensation, the actual time spent by each employee or consultant, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation was claimed. 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.

8. Comments on Proposed Decision

This is an intervenor compensation matter. Accordingly, as provided by Rule 14.6(c)(6) of the Commission's Rules of Practice and Procedure, we may waive the otherwise applicable 30-day public review and comment period for this decision. However, because the Commission is reducing the amount requested in this award, in the interest of fairness we provide a 30-day review period and allow parties to submit comments on this proposed decision. The proposed decision of the assigned ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. No comments were received.

9. Assignment of Proceeding

President Michael R. Peevey is the assigned Commissioner, and Charlotte F. TerKeurst, Jonathan Lakritz, and Amy Yip-Kikugawa are the ALJs assigned to this proceeding.

Findings of Fact

1. CE Council has satisfied all the procedural requirements necessary to claim compensation in this proceeding.

2. CE Council made a substantial contribution to D.07-01-039 and D.07-09-017 as described herein.

3. CE Council did not make a substantial contribution to D.07-05-063 as described herein.

4. CE Council's requested hourly rates for Tamlyn Hunt are reasonable when compared to the market rates for persons with similar training and experience.

5. CE Council failed to justify the work performed or the hourly rate for Megan Birney.

6. CE Council's requested related expenses, as adjusted herein, are reasonable and commensurate with the work performed.

7. The total of the reasonable compensation is \$34,206.05.

8. The appendix to this opinion summarizes today's award.

Conclusions of Law

1. CE Council has fulfilled the requirements of §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its claimed compensation incurred in making substantial contributions to D.07-01-039 and D.07-09-017, as described herein.

2. CE Council should be awarded \$34,206.05 for its contribution to D.07-01-039 and D.07-09-017.

3. CE Council's request for compensation related to D.07-05-063 should be denied.

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

O R D E R

IT IS ORDERED that:

1. The Community Environmental Council (CE Council) is awarded \$34,206.05 as compensation for its substantial contributions to Decision (D.) 07-01-039 and D.07-09-017.
2. CE Council's request for compensation related to D.07-05-063 is denied.
3. Within 30 days of the effective date of this decision, CE Council's award shall be paid from the intervenor compensation program fund, as described in D.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 January 15, 2008, the 75th day after the filing date of the CE Council's request for compensation, and continuing until full payment is made.
4. Rulemaking 06-04-009 remains open.

This order is effective today.

Dated January 29, 2009, at San Francisco, California.

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

APPENDIX A

Compensation Decision Summary Information

Compensation Decision:	D0901031	Modifies Decision? No
Contribution Decision(s):	D0701039 and D0709017	
Proceeding(s):	R0604009	
Author:	ALJ TerKeurst, ALJ Yip-Kikugawa, and ALJ Lakritz	
Payer(s):	Commission	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Community Environmental Council	11/1/2007	\$38,973.55	\$34,206.05	No	Lack of contribution, unexplained expenses, and clerical work

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Tamlyn	Hunt	Attorney	Community Environmental Council	\$210	2006	\$210
Tamlyn	Hunt	Attorney	Community Environmental Council	\$280	2007	\$280

(END OF APPENDIX A)