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

Order Instituting Rulemaking to Continue
Electric Integrated Resource Planning and
Related Procurement Processes

Rulemaking R.20-05-003

**APPLICATION FOR REHEARING OF D.26-09-024
BY THE GREEN POWER INSTITUTE**

October 8, 2026

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Pursuant to Public Utilities Code section 1731(b)(1) and Rules 16.1, 16.2, and 16.3 of the Commission's Rules of Practice and Procedure, in the **Order Instituting Rulemaking to Continue Electric Integrated Resource Planning and Related Procurement Processes**, R.20-05-003, the Green Power Institute, the renewable energy program of the Pacific Institute for Studies in Development, Environment, and Security (GPI), provides this *Application for Rehearing of D.26-09-024 by the Green Power Institute*. A declaration of GPI's Director, Dr. Gregg Morris, is submitted with this application as Attachment A (Morris Declaration). Decision 26-09-024 was adopted on September 3, 2026, and issued on September 9, 2026. This Application is timely filed.

Introduction

On April 16, 2024, GPI filed a claim for intervenor compensation in R.20-05-003 seeking \$226,275 for substantial contributions to Decision nos. D.22-05-015, D.23-02-040, and D.24-02-047. On July 8, 2026, the Commission issued a proposed decision that awarded GPI \$97,456, 43 percent of the amount requested. GPI filed comments on the PD on August 14, 2026, and rev.1 of the PD was issued on September 1, 2026. Rev. 1 added \$27,728 to the proposed award, bringing the award up to 55 percent of the amount requested. The Commission approved Rev. 1 at its meeting on September 3, 2026 (D.26-09-024).

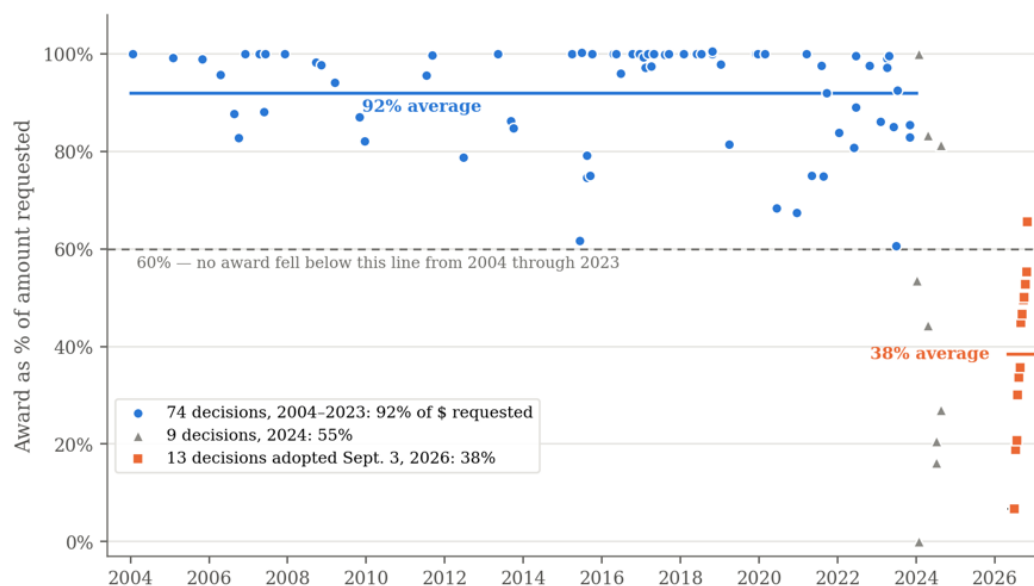
Decision 26-09-024 makes fundamental legal errors in its interpretation of California Public Utilities Code Sections 1801-1812 with respect to its analysis of our claim for intervenor compensation. D.26-09-024 also sharply deviates from Commission precedent in its application of the intervenor compensation statutes and rules to our claim. Many of these errors are repeated in the other 12 GPI IComp Decisions that were adopted on Sept. 3, a clear abuse of discretion in the processing of GPI's IComp claims. In this

Application for Rehearing we detail the basis for our claims of legal error, and respectfully request that we be granted an oral argument to present and clarify our case.

The Decision evaluates GPI's claim under standards the Commission applies to no other intervenor, and did not apply to GPI in the twenty years of its practice before 2024, while simultaneously denying that anything has changed in its methodology. The Decision is inconsistent with past Decisions on our intervenor compensation claims, and fails to follow long established Commission precedent.

The below figure shows that for twenty years, under many Administrative Law Judges and several Commission presidents, GPI's awards clustered near the full amount requested (92 percent average), and none fell below 60 percent. The break begins in 2024 and culminates in the thirteen decisions of September 3, 2026, twelve of which fall below 60 percent, including this one. GPI's practitioners, timekeeping, claim form, and manner of advocacy did not change across that line. It is the Commission's treatment of GPI's claims that has changed.

GPI intervenor compensation awards as a percentage of the amount requested, 2004–2026 (source: Morris Declaration, Exhibit 1):



Each point is one Commission decision on a GPI compensation claim, by decision date; averages are dollar-weighted. The thirteen Sept. 3, 2026 decisions are spread horizontally for legibility. Source: Commission decisions; Morris Declaration, Exhibit 1.

We note that on July 8, 2026, after a two-year period during which no GPI claims were adjudicated and GPI was forced to suspend our operations at the Commission, thirteen PDs including this one were issued for the oldest 13 of GPI's then 17 pending claims. The 13 claims were filed over the course of a greater than two-year period; nevertheless all 13 of the PDs were issued on the same day, and no explanation has been given as to why. This factor alone has seriously hampered our ability to respond adequately to each of the individual PDs and subsequent final Decisions, all of which were similarly adopted on the same day. GPI goes on record as protesting this unprecedented treatment, and hopes that it can be taken into account when considering our Application for Rehearing.

The universal theme running through the 13 Decisions appears to be an effort to deduct the maximum amounts possible from our claims, even if it means sidestepping or ignoring established Commission practices and precedent. GPI is filing Applications for Rehearing for all 13 of the IComp Decisions passed at the Commission's September 3, 2026, meeting. Each Application includes a request for oral argument. We will be comfortable if the Commission chooses to consolidate the requests for Oral Argument in some way so as to limit the number of oral arguments to hold. We are available to advise on groupings should the Commission wish to hear our thoughts.

GPI requests that the Commission take official notice, under Rule 13.10 and Evidence Code section 452, subdivision (c), of the July 28, 2026 joint comments of TURN and the Center for Accessible Technology filed in R.19-09-009, of the August 19, 2026, reply comments of Clean Coalition filed in R.19-09-009, of D.26-02-056, and of the other twelve decisions on GPI compensation claims adopted on September 3, 2026, each of which is an official act of the Commission or a filing in a Commission proceeding, so that the comparisons drawn in this Application are part of the record on any review (see §1757.1(c)).

Legal Errors

D.26-09-024 makes several fundamental legal errors in its treatment of our claim in R.20-05-003. These errors include inappropriate disallowance of overhead charges, switching

classification of practitioners with respect to the Commission's rate study without cause or explanation, misapplication of the rules for qualification of what constitutes a Substantial Contribution, unwarranted deductions for internal duplication, and failure to acknowledge that a summary of a party's position in a Decision is an indication that the record has been enriched and a substantial contribution has been made.

Misapplication of Established Standards

GPI's practitioners, its timekeeping, the form of its filings, and the character of its advocacy have not changed during the 23 years of its practice before the Commission. What has changed, inexplicably, in 2024 was the Commission's treatment of GPI's IComp claims. If the Commission's standards have not changed, then the Decision misapplies them; if they have changed, the Decision applies a new standard without acknowledging it, without explaining it, and without notice to the intervenors whose work it governs. Either way is legal error, and the Commission must grant rehearing to correct it.

The Commission's assertion that nothing has changed with respect to how it analyzes IComp claims is directly contradicted by the record of this proceeding, and an unacknowledged and unexplained departure from settled practice is legal error. The Decision asserts: "The Commission confirms that the process for evaluating IComp claims has not changed, nor have the rules governing the IComp program (D.26-09-024, pg. 19)." That assertion is belied by the treatment that our IComp claim has received in D.26-09-024, as detailed in the discussion below.

The thirteen decisions adopted on Sept. 3 share another feature that bears on whether the Commission's standards have changed. Although authored by at least nine different Administrative Law Judges in proceedings with different records they share substantial identical text, including the "unproductive" and "largely duplicative" characterizations, the recitation of the significance of the September 16, 2025, supplemental-information ruling, and the reduction of claim-preparation hours. Identical language applied to dissimilar claims is not the product of thirteen independent applications of an unchanged

standard to thirteen records. It is the product of a common template, applied to GPI's claims as a group, that did not exist when GPI's 74 claims were decided before 2024, and absolutely should not exist in 2026.

The clearest comparison to past practice can be found in this proceeding itself. The Commission has twice before compensated GPI for its participation in R.20-05-003, on claims prepared in the same way, allocated by issue on the same form, and supported by the same kind of time records. In D.23-04-025, adopted in April 2023, the Commission awarded GPI \$32,525 of the \$32,814 requested, or 99 percent. In D.24-08-057, adopted in August 2024, it awarded \$190,154 of the \$233,819 requested, or 81 percent.

More than two years after D.24-08-057, in the same proceeding and for advocacy of the same character, the Decision awards 55 percent and reclassifies Dr. Morris on the Commission's rate chart, without mentioning either prior decision (D23-04-025, D.24-08-057). A decision that departs this sharply from the Commission's own treatment of the same intervenor in the same proceeding, without acknowledging the earlier decisions, is the kind of unexplained inconsistency that the law treats as arbitrary. (*Encino Motorcars, LLC v. Navarro*, supra, 579 U.S. at p. 222; *New Cingular I*, supra, 246 Cal.App.4th at p. 819.)

The California Supreme Court has applied the same rule to this Commission. In *City and County of San Francisco v. Public Utilities Com.* (6 Cal.3d 119, 129–131, 1971), it annulled a decision in which the Commission “abused its discretion in expressly refusing to consider” the method the Commission had itself established in a prior decision. This holding applies with full force to a decision that abandons, without a word, the method by which the Commission adjudicated GPI's two prior claims in this proceeding.

The Decision does neither of the things the law requires. It does not acknowledge a change, because it denies that one has occurred. It therefore does not explain the changes. In addition, it does not address the reliance interests that twenty years of consistent awards created. This Decision produces a result irreconcilable with the agency's settled practice, while denying that the practice has changed, and its deductions

are not supported by its findings. Rehearing should be granted so that the Commission may either apply the standards reflected in its prior decisions or state and justify the new ones and why they are being applied only to GPI.

Consultant Rates and Overhead

All organizations that hire practitioners on a contract basis must collect some amount of overhead to cover the cost of hiring, managing, and paying their practitioners. Without a reasonable overhead charge an intervenor organization would lose money on every hour that a practitioner worked – an obviously unsustainable situation. When a company hires an attorney, for example, the hourly rate they pay the attorney’s law firm covers not only the attorney’s salary, but also the costs of benefits, and the costs of maintaining the office and the enterprise. In the case of non-profit intervenors participating in the Commission’s intervenor compensation program the overhead has to cover not only the usual costs of operating the institution, but also the cost of financing partial or full payments of the practitioners’ compensation sometimes years ahead of when an award of compensation is made, and the risk that not all of the hours of a practitioner’s hours will be approved for compensation. In this case the practitioner was paid the bulk of her fees 2-4 years prior to when GPI received reimbursement. Financing those upfront payments entails a significant cost in and of itself.

D.26-09-024 states: “Because the consultant has agreed to be paid a percentage of the Commission approved rate and hours, the requested compensation in this claim does not accurately reflect the actual cost of the consultants’ services (D.26-09-024, pg. 18).”

This is factually incorrect. The actual cost of the practitioner’s services includes, in addition to the fees paid to the practitioner, the overhead cost of the institution sponsoring the practitioner (in GPI’s case the Pacific Institute), the very considerable cost of financing upfront costs, and a premium for the risk of participating in the intervenor compensation program.

In a 2007 Decision on intervenor compensation rates, the Commission made the following finding:

We find that basing expert rates on levels of experience, similar to the levels established for attorneys, will better ensure that an expert's given rate is within the market rates paid to persons of comparable training and experience. However, in no event should the rate requested by an intervenor exceed the rate billed to that intervenor by any outside consultant it hires, even if the consultant's billed rate is below the floor for a given experience level. [D.07-01-009, pg. 5.]

The intent of this paragraph is clear. Intervenors should not be able to collect full market rates for their practitioners if their practitioners are charging the intervenor below market rates for their services. It does not mean that intervenor organizations cannot collect reasonable overhead fees for supporting their practitioners. In our Oct. 13, 2025, response to the Sept. 16, 2025, ALJ's Ruling, GPI made clear how each dollar awarded in an IComp Decision is distributed between the Pacific Institute, GPI and its practitioners. Our overhead rates are reasonable and have never generated excess profits or extracted excessive charges from the payees of the awards – the ratepayers. Every intervenor organization requires overhead fees to operate their institutions. Some may hide it through various institutional arrangements. We have been 100 percent transparent about our operations, and should not be penalized as a result. The Decision's deduction of \$23,698.96 is utterly unjustified and completely at odds with established Commission practice.

Moreover, as we noted in our Aug. 14, 2026, Comments on the PD, it is highly questionable whether the passage quoted above from D.07-01-009 applies to our practitioner, Dr. Harrold:

The PD seems to classify all practitioners into two categories – employees and consultants. In the real world there are many categories of workers who are not fulltime employees, and GPI refers to non-employees who perform the great bulk of their work through GPI as associates of various ranks. This is not a misrepresentation in any sense of the word. The PD then applies the standard established in D.07-01-009 that: “in no event should the rate requested by an intervenor exceed the rate billed to that intervenor by any **outside** consultant it hires (emphasis added).” Practitioners like Dr. Harrold, who do virtually all of their work through GPI, are not **outside** consultants. They are more like contract employees. Classifying her as an **outside** consultant is wrong, and leads to wrong conclusions in the PD. [Comments on the PD, pg. 4.]

The Decision claims that it has not changed the rules or practices of how it administers the intervenor compensation program. The reduction in the award in this IComp claim that removes all overhead reimbursement belies this claim. D.07-01-009 was issued almost 20-years ago. For 17 years the Decision was interpreted to allow for the payment of overhead as part of the approved rates for GPI practitioners. D.26-09-024 disallows the payment of overhead charges. That is a major and unwarranted change in the application of Commission rules, and it has been neither announced nor explained to the intervenor compensation community. It is a change that, if universally applied, would do significant damage to the intervenor compensation program. This deduction needs to be removed from D.26-09-024.

The Decision also identifies no statutory basis for the deduction. Section 1806 directs the Commission to consider “the market rates paid to persons of comparable training and experience who offer similar services.” Market rates for professional services necessarily include the overhead of the organization that supplies them. A deduction that rests on a reading of D.07-01-009 the Commission has not applied for seventeen years, without acknowledging the change, is the unexplained departure from settled practice that *California Manufacturers Assn.* and *City and County of San Francisco* hold to be legal error. [California Manufacturers Assn. v. Public Utilities Com. (1979) 24 Cal.3d 251, 259–260 (decision annulled where “neither finding nor evidence exists showing the method adopted will result in” the objective the Commission invoked for changing its method); *City and County of San Francisco v. Public Utilities Com.* (1971) 6 Cal.3d 119, 129–131 (Commission “abused its discretion in expressly refusing to consider” the method it had established in a prior decision).]

Compensation Rates for Individual Practitioners

Decision 22-06-041, on page 13 item 4, states: “Adopting \$450 rate for Morris for 2021. With over 35 years of experience as a Public Policy and Regulatory Affairs Expert, Morris according to the Market Rate Study Resolution ALJ-393 qualifies for a rate in the median range for a Regulatory Affairs Specialist V.” Decisions 23-11-036 and 24-04-036 escalate the rate to \$465 for 2022 and \$485 for 2023 using the Commission’s own

escalation factors. Dr. Morris' rate for 2024, using the Commission's own escalation factor, would be \$505. GPI's claim in R.20-05-003 has hours for Dr. Morris for 2022-2024.

The PD asserted that Dr. Morris had previously identified himself as an employee of GPI, a false assertion that we debunked in our comments on the PD. Rev. 1 of the PD corrected the false assertion, but failed to follow through on correcting the treatment of Dr. Morris' approved rates in acknowledgment of the false assertion in the PD. D.26-09-024 states: "GPI identifies Morris as the director of GPI. Supplemental information confirms ... that Morris has agreed to defer his consulting fee contingent upon receipt of this intervenor compensation award. Given this contingency, we utilize the reasonable rates established by Resolution ALJ-393 based on Morris' experience as an Advocate – Executive Director – Level V." Dr. Morris, accurately identified for more than 20 years as the Director of GPI, has previously been recognized as qualifying for Regulatory Affairs Specialist V (D.22-06-041 – see above). D.26-09-024 gives no more explanation for reassigning Dr. Morris from Regulatory Affairs Specialist to Advocate – Executive Director than the fact that he is the Director of GPI and works on a contingency basis. Dr. Morris is a fully active practitioner in Commission proceedings, and has been for more than 20 years. He is not simply a program administrator. Moreover, working on a contingency basis has nothing to do with what classification a practitioner qualifies for. Dr. Morris' circumstances have not changed in any way between 2021 and 2024 (actually between 2003 and 2024). Dr. Morris' approved rate for 2023, based on D.22-06-041, D.23-11-036 and D.24-04-036, should be used in the settlement of our claim in R.20-05-003. His rate for 2024 should be his approved rate for 2023 inflated by the Commission's escalation rate, which is what we claimed in our IComp request. The reclassification of Dr. Morris's rate category in D.26-09-024 is unwarranted, unjustified, and incorrect. It needs to be rescinded.

Section 1806 directs that the computation of compensation "shall take into consideration the market rates paid to persons of comparable training and experience who offer similar services." The Commission's own determinations of Dr. Morris's classification and rate

in D.22-06-041, D.23-11-036, and D.24-04-036 are un rebutted evidence in the record of the rate paid to this practitioner for these services, and the Decision neither mentions them nor explains why they no longer apply. A rate determination that disregards un rebutted record evidence of the applicable market rate is an abuse of discretion under section 1806, and the remedy is recalculation on the record. [The Utility Reform Network v. Public Utilities Com. (2008) 166 Cal.App.4th 522, 537 (Commission “abused its discretion and failed to act in a manner consistent with section 1806’s directive” by setting a rate that ignored “the un rebutted evidence in the record”).]

In addressing our comments on the PD, the Decision states: “We note that the previously approved rates that GPI references to were approved for a different role. Given Morris’ clarification that he serves in the role of a director, this is the correct role to be used to establish his rates. Therefore, we make no changes to the decision (D.26-09-024, pg. 21).” This statement is false. GPI did not “clarify” that Dr. Morris is the Director of GPI. Dr. Morris has been the Director of GPI since its founding in 1995, and has always and consistently represented himself as the Director of GPI, in his work at the Commission as well as elsewhere. His role has not changed over the years, and he was and continues to be eminently qualified as a Public Policy and Regulatory Affairs Expert. The unwarranted and unfounded change in category in the Decision needs to be reversed.

Zoë Harrold has approved charge rates for 2021 and 2022 that were based on escalating pre-rate-study rates using the Commission’s approved escalation rates. GPI proposed transitioning Dr. Harrold to the Commission’s Rate Study for 2023, proposing a rate of \$300/hr in this Application, and later increasing our request to \$325. GPI’s request for setting Dr. Harrold’s 2023 rate based on the Commission’s rate study is neither acknowledged nor considered in D.26-09-024. Instead, her 2022 approved rate was escalated to a 2023 rate of \$260/hr. We believe that the \$325/hr rate that we proposed should be adopted for 2023, or at the least the Decision should acknowledge our proposal and explain why our proposal is not adopted.

Substantial Contribution

A finding of substantial contribution qualifies the claimant for compensation. What then remains to be done is the determination of which hours were reasonably devoted to the contributions found, not the degree to which the claimant has made a substantial contribution or whether the claimant is eligible at all. A contribution does not have to be adopted in a Decision to be a substantial contribution, it just has to enrich the record underlying the Decision. A contribution does not have to be cited in a Decision to be a substantial contribution. A party does not have to be the sole source of a position in order to claim that position as a substantial contribution. Hours need not be traced individually to a specific adopted position – hours reasonably devoted to the issues that were litigated by the Commission in the course of formulating the Decisions are compensable. Nearly all of the 13 Decisions make one or more of these errors. The 13 Decisions as a group consistently misapply California Public Utilities Code sections 1803(a), 1802(j), 1802.5, and many long-standing Commission precedents, in denying claimed hours in these Decisions. GPI does not contend that a finding of substantial contribution entitles a customer to every hour claimed. We contend that once a contribution is found, the Commission must conduct the issue-by-issue review that D.98-04-059 contemplates, and that any resulting reduction must be reasoned and tied to the record.

Section 1803(a) of the California Public Utilities Code requires the Commission to compensate a customer whose presentation makes a substantial contribution to a Commission order or decision, and Section 1802(j) defines a substantial contribution as one in which the order or decision adopts, in whole or in part, one or more of the customer's factual contentions, legal contentions, or policy or procedural recommendations. Adoption of even one contention in part suffices. [See D.98-04-059, 79 Cal.P.U.C.2d 628, 653; D.02-03-033.]

A customer need not prevail to have contributed substantially. Compensation is proper even where the customer's position is not adopted, so long as the participation assisted the Commission or enriched the record (§1802.5; D.89-03-063, 31 Cal.P.U.C.2d 402). The Commission reaffirmed this principle as recently as July 2026, holding that an

intervenor may establish a substantial contribution “regardless of whether their positions are adopted (D.26-07-054, p. 18).” It has likewise found that intervenors “substantially contribute to the decision-making process because the Commission benefited from the legal and factual arguments” they made, even where the Commission declined to adopt the recommendation (D.19-10-019, pp. 3–6), and has explained that “awards of full compensation for partial or no adoption of the intervenor’s positions are premised on findings that the intervenor made a contribution to the stated issues” (D.21-06-021, pgs. 2–3). Where participation has resulted in a substantial contribution, even if the Commission adopts the contention only in part, the Commission may award all reasonable fees incurred in preparing and presenting that contention (D.89-03-063).

Where a customer’s contentions parallel those of other parties, the customer remains compensable if its participation “materially supplement[ed], complement[ed], or contribute[d]” to the presentation or to a fuller record. The question in that situation is not whether the Commission relied “exclusively” or “primarily” on the customer’s showing, but whether the customer offered “distinct analyses” that provided significant additional value in assisting the Commission (§1802.5; D.05-06-054; D.08-11-028; D.23-04-058, pp. 10–11; D.26-07-054, p. 19).

On pages 15-17, D.26-09-024 makes all of the errors listed in the first paragraph of this section – contending that adoption of a position is required in order to qualify it as a substantial contribution, that specific citation is required in order to qualify it as a substantial contribution, that exclusivity in offering a particular position is required to qualify it as a substantial contribution, and that hours not directly related to a party’s substantial contribution are not eligible for compensation. The Decision does determine that we made substantial contributions to all of the three Decisions upon which our claim was based. It was therefore required to evaluate GPI’s hours on an issue by issue basis, compensating those reasonably devoted to contributions that assisted the Commission, and explaining, by reference to the record, any that it disallowed.

The treatment that GPI has received in all of the PDs issued on July 8 is so extreme and counter to established Commission practice and precedent that two intervenors, The

Utility Reform Network (TURN) and the Center for Accessible Technology (CforAT), jointly filed comments on July 28, 2026, in R.19-09-009 in support of our claim in that proceeding, and a third intervenor, the Clean Coalition, filed reply comments in support of our comments on the PD, also in R.19-09-009. All three complain that improper standards were being imposed. TURN and CforAT explain that they “very rarely comment on matters related to requests for Intervenor Compensation submitted by other intervenors,” and do so “only in limited circumstances, such as where the proposed decision would seem to implicate the Commission’s implementation of the Intervenor Compensation Program more broadly (TURN/CforAT Comments pg. 1).” These comments and reply comments pertain to the Decision in R.19-09-009 directly, and indirectly to all 13 of the July 8 PDs.

D.26-09-024 dismisses TURN’s and CforAT’s joint, comments as follows:

We do not address TURN and the Center for Accessible Technology’s comment here as they do not pertain to this proceeding, but we must correct GPI’s mischaracterization of them. TURN and the Center for Accessible Technology did not indicate that their comments in R.19-09-009 were intended to apply to other proposed decisions in other proceedings, including this one as GPI claims. Their comments were specific to R.19-09-009; had they intended those comments to apply here, they would have filed comments in this proceeding as well. Additionally, their comments did not state support for GPI’s claim. Instead, they requested clarification from the Commission that an intervenor may establish substantial contribution when it materially supplements or complements another intervenor’s showing on the same issue, and that an intervenor may receive compensation even if its positions are not adopted, provided the Commission determines that the intervenor made a substantial contribution. [D.26-09-024, pg. 20.]

This characterization does not withstand examination. If the joint commenters were merely in search of a clarification, they would not have filed their concerns as a comment on the July 8 GPI PD in R.19-09-009. Because they filed it as a comment on the July 8 GPI PD it can be inferred to mean that they were concerned that the Commission was misapplying the standards for what constitutes a Substantial Contribution in the PD’s denial of GPI’s claim. The Clean Coalition’s concerns are similarly dismissed, although their explicit support for our positions is acknowledged. The Decision then “confirms” that standards for qualification as a Substantial Contribution have not changed, despite

the fact that, as discussed above, the standards are demonstrably changed for the PD and subsequent Decision in this case, and indeed for many of the 13 Decisions that were adopted on September 3. As TURN and CforAT state, when intervenors comment on the IComp claims of other intervenors there is a real reason for concern.

The Decision points out that TURN and CforAT do not state that their comments refer to PDs other than the one in R.19-09-009. While technically correct, this assertion ignores the fact that the same issues that concern TURN and CforAT in R.19-09-009 appear in many of the Sept. 3 GPI Icomp Decisions, including this one. The Decision notes that if TURN and CforAT had meant to apply their comments to others of the Sept. 3 GPI Icomp Decisions, they would have filed comments in those proceedings too. This is nonsensical. As the joint commenters stated in their comments, it is a major breach of practice for an intervenor to comment on other intervenors' IComp claims, only done when issues of importance to the entire intervenor compensation programs are at stake. Doing so once is remarkable. Repeating it 12 more times is unimaginable.

Deferral of Issue to the VAMO process

D.26-09-024 contends:

With respect to D.22-05-015, the Commission deferred to the VAMO process to address allocation of RPS attributes and stated that GPI's comments were not addressed. The underlying decision mentioned GPI only once, stating the following: "GPI's comments on the proposed decision focus on only one issue, which is whether RPS RECs should be allowed to be unbundled from the energy procured, and also whether the GHG attributes of that energy are embedded in the RPS REC. GPI argues that the RPS rules already govern this sort of issue, and therefore this decision does not need to add additional prohibitions. Since we are now deferring to the VAMO process to address allocation of RPS attributes, we do not address this comment from GPI further in this decision." The underlying decision is explicit that this issue was deferred and that GPI's comments were not addressed or considered. [D.26-09-024, pg. 22.]

The final sentence in the above quotation misrepresents what is written in D.22-05-015. The decision to defer the issue is itself based on a consideration of the record underlying that issue. GPI's comments were not directly addressed because of the decision to defer the issue, but that absolutely does **not** mean that they were not considered. On the

contrary, it was determined to defer the issue precisely because of what was in the record about the issue and in consideration of other Commission efforts already in process. Moreover, the Commission inquired to parties in the proceeding what to do about the attributes of RPS energy, and GPI answered that inquiry. GPI unquestionably made a substantial contribution to the record underlying the Commission's decision to defer the issue, and the substantial contribution should be given the recognition it deserves.

Summary of Position is an Indication of Substantial Contribution

The Decision asserts that the fact that a decision references a party's comments on a particular topic does not represent a substantial contribution. This assertion flies in the face of longstanding Commission practice in evaluating claims of substantial contribution. Commission Decisions do not typically reference comments that are considered to have failed to enrich the record of a proceeding. Moreover, by virtue of being summarized in a Decision the position becomes part of the record of the proceeding. The corollary of this is that if a comment on a particular topic is referenced and summarized in a Decision, then the comment must have enriched the record underlying the decision. It has been longstanding Commission practice to apply this standard in its evaluation of IComp claims – that a summary of a party's position in a Decision is an indication of substantial contribution – and the same finding should be made in the immediate Decision.

IComp Preparation Hours

D.26-09-024 reduces IComp claim-preparation time from the 16.00 hours claimed to 10.00 hours. In fact, the effort required to prepare a claim is driven by the scope of the proceeding and by what the Commission's claim form requires, not by the size of the request or the award later made.

We note first that Dr. Morris' timesheets record considerably more hours for IComp preparation than are claimed – 21 hours vs. 16 hours. In other words, GPI had already exercised billing judgment and written off a good deal of the recorded time before filing. Preparation of these claims required review of three final decisions hundreds of pages

long against three years of GPI pleadings and participation, preparation of the detailed contribution showings in Part II of the claims, and assembly of the timesheet attachments. The quantities of hours claimed, billed at one-half rate per Commission practice, is modest for the tasks. The further reductions are precisely the kind of across-the-board, conclusory reductions that must instead be tied to the record and reasoned (*New Cingular II, supra*, 21 Cal.App.5th at p. 1204). Moreover, the Decision sets preparation time by reference to “the scope of this proceeding,” apparently overlooking the fact that the IRP proceeding has a huge scope, and our claim covered three significant Decisions. The effort required to prepare a claim is driven by the scope of the proceeding and by what the Commission’s claim form requires, not by the size of the claim or the award later made.

The Decision contends: “we note that there were several issues with the claim, including omission of required information, unclear or inconsistent details, and other inconsistencies that hindered the Commission’s ability to evaluate and resolve the claim (D.26-09-024, pg. 17).” This is false. Nowhere in the Decision does it detail omissions of required information, unclear or inconsistent details, or other inconsistencies. Our original claim included the same information that countless of our previous claims included, and when we were asked for additional information we provided it completely and in a timely manner. This highly prejudicial misstatement should be deleted from the Decision.

We note further that all but one of the 13 Decisions issued adopted on September 3 include deductions of 33-50 percent or more for IComp claim preparation hours using virtually identical language. The recital is not tied to anything in the preparation record of the particular claim. Uniform language applied across dissimilar claims is not a finding on this claim. It is the kind of unexplained, across-the-board treatment that is arbitrary and capricious. The 16 hours claimed for IComp preparation should be restored.

Other Comments on page 18 of the Decision charges GPI with omission of required information, unclear or inconsistent details, and other inconsistencies. The Decision does

not identify any required information that was omitted from this claim, or any detail in it that was unclear or inconsistent. The quoted language is drawn from the September 16, 2025, Ruling, which itself did not identify any required information that was omitted from any of the claims, or any details in any of the claims that were unclear or inconsistent. In fact, the record will show that GPI's initial Application for an award of intervenor compensation in this proceeding contained the same information that our claims have contained for over twenty years. When the Commission requested additional information GPI responded promptly and completely. All of the Sept. 3 GPI IComp Decisions include the same or similar charges, and none presents any evidence of deficiencies or inconsistencies. This is another example of abuse of discretion in the adjudication of GPI's IComp claims in 2026.

Request for Oral Argument

GPI respectfully requests, pursuant to Rule 16.3, an oral argument be held in the course of addressing our Application for Rehearing in this proceeding, R.20-05-003. We believe that an oral argument will materially assist the Commission in resolving this Application, and will demonstrate that the Application raises issues of major significance for the Commission and its administration of the statutorily mandated intervenor compensation program. An oral argument is indicated to illustrate the fact that D.26-09-024 departs sharply from established Commission practice in evaluating intervenor compensation claims, and that if the errors made in D.26-09-024 become the new norm for the evaluation of IComp claims the entire IComp program will be stripped of its utility and effectiveness.

Decision Departs from Existing Commission Precedent

Rule 16.3(a)(1) of the Commission's Rules of Practice and Procedure identifies a decision that "departs from existing Commission precedent without adequate explanation" as raising an issue of major significance warranting oral argument. It produces a result irreconcilable with twenty years of consistent awards to GPI while simultaneously denying that anything in its methodology has changed; it finds a

substantial contribution yet declines to evaluate GPI's claim issue by issue, applying longstanding precedent, as D.98-04-059 contemplates.

D.26-09-024 departs sharply from established Commission precedent in several areas, including the disallowance of reasonable overhead charges, misapplication of the rules for qualification of what constitutes a Substantial Contribution, interpreting the deferral of an issue as an indication of no substantial contribution having been made, and failure to recognize that a summary of a party's position in a Decision is an indication that the record has been enriched. The Decision also errs by switching the classification of practitioners with respect to the Commission's rate study without cause or explanation, when the previous classification has been properly accepted by the Commission and there have been no changes in status for the practitioner. If the changes to established Commission protocols that are included in D.26-09-024 were to be applied across the board in the intervenor compensation program it would devastate the program. Unexplained departures of this kind – over time, between similarly situated intervenors in the same proceeding, and within the Decision itself – are the core of what the courts treat as arbitrary and capricious agency action, and they should be resolved by the Commission before they are presented to a reviewing court.

Decision is Contrary to Commission Goals for the Intervenor Compensation Program

The intervenor compensation program exists because the Legislature concluded that the Commission's proceedings benefit from the participation of customers who cannot afford to participate without compensation, and it directed that the program be administered "in a manner that encourages the effective and efficient participation of all groups that have a stake in the public utility regulation process (§§ 1801, 1801.3(b))." An award that returns only 55 percent of the reasonable cost of participation does not encourage participation – it ends it.

The application also presents legal issues of exceptional public importance (Rule 16.3(a)(3)). Whether the Commission may change the standards by which it evaluates intervenor participation without announcing the change, and whether intervenors may be

denied compensation for good-faith advocacy of legal positions the Commission ultimately rejects, bear directly on the Legislature's direction in section 1801.3(b). If the standards applied in D.26-09-024 were applied across the intervenor compensation program generally, the program would be stripped of much of its effectiveness, and it would be the opposite of the encouragement that the intervenor compensation statute requires of the Commission. Intervenors cannot sustain participation in Commission proceedings on awards of 55 percent of the reasonable cost, after years of uncompensated participation. The significance of those questions is reflected in the fact that TURN and the Center for Accessible Technology, which by their own account very rarely comment on other intervenors' compensation requests, did so for a GPI PD in a parallel proceeding because the proposed decision "would seem to implicate the Commission's implementation of the Intervenor Compensation Program more broadly (Comments of The Utility Reform Network and Center for Accessible Technology on the Proposed Decision in R.19-09-009, July 28, 2026, pg. 1)." Their comments apply equally to this Decision as they do to the Decision in R.19-09-009.

Conclusion

For the foregoing reasons, the Commission must grant this application for rehearing of D.26-09-024 and:

1. Acknowledge whether the standards by which the Commission evaluates intervenor compensation claims have changed and, if so, state and explain the change; and apply to GPI's claim the standards reflected in the Commission's decisions on GPI's prior claims;
2. Conform Parts II and III of the Decision to Finding of Fact 1, by applying to each of the issues the standard for substantial contribution that the Decision confirms in Part IV;
3. Evaluate GPI's claimed hours issue by issue and, at a minimum, award the reasonable hours of all practitioners allocated to the issues on which the Decision adopted GPI's positions;

4. Find that GPI's participation on issues in which the Decision fails to adopt GPI's positions nevertheless assisted the Commission in resolving contested legal and policy questions that the Resolutions addressed in their findings and conclusions, and award reasonable hours accordingly;
5. Find that GPI's participation on issues which the Decision defers to other efforts nevertheless assisted the Commission in its decision to defer, and award reasonable hours accordingly;
6. Apply to Dr. Morris the classification adopted in D.22-06-041 and the resulting rates previously approved for 2021-2023; and
7. State the method by which the Commission evaluates intervenor compensation claims, apply that method uniformly to GPI's claim and to the claims of similarly situated intervenors, and derive any reduction from the hours claimed and the record, so that the award is traceable and reviewable.

The Decision has some pointed remarks about deficiencies in GPI's IComp claims, deficiencies that are nowhere identified or described in any of the Sept. 3 Decisions. The derogatory language is virtually identical to most or all of the other 13 Decisions adopted on Sept. 3, which means that the remarks are not specific to this Decision, D.26-09-024. In fact, the recital is not tied to anything in the preparation record of this particular claim. Uniform language applied across dissimilar claims is not a finding on this claim. It is the kind of unexplained, across-the-board treatment that is arbitrary and capricious. It should be removed from the Decision. So should Item [5] of Part III.D (pg. 17), which warns that "misstatements may still be actionable" under Rule 1.1 and that "[d]ishonest or misleading claims" may be penalized. The Decision identifies no misstatement or misleading claim in this claim. A warning of that kind, placed in a decision on GPI's claim without any finding to support it, is prejudicial and should be withdrawn.

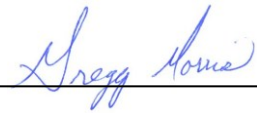
It is worth pointing out that by statute the PD should have been issued by 7/1/24, so in fact it was issued two years late. If the Decision had some legitimate suggestions and directions for GPI's future efforts at the Commission, delaying it by almost a year-and-a-half is highly irresponsible.

The Decision cuts GPI's request by 45 percent. It does so by applying to GPI's claim standards it applied to no comparable intervenor without acknowledging or explaining the difference. The result is arbitrary and capricious.

Applying longstanding established evaluation standards to our claim would produce a very different result. The Commission should accept our Application for Rehearing, and issue a Decision that properly and fairly adjudicates our April 16, 2024, IComp claim in R.20-05-003.

GPI further requests oral argument on this application pursuant to Rule 16.3.

Dated October 8, 2026
Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Gregg Morris", is written over a horizontal line.

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