

Decision 08-11-029 November 6, 2008

**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 THE GREEN POWER INSTITUTE FOR SUBSTANTIAL CONTRIBUTIONS  
TO DECISION (D.) 07-09-017 AND D.08-03-018**

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**DECISION GRANTING INTERVENOR COMPENSATION  
TO THE GREEN POWER INSTITUTE FOR SUBSTANTIAL CONTRIBUTIONS  
TO DECISION (D.) 07-09-017 AND D.08-03-018**

This decision awards \$60,608.50 in compensation to the Green Power Institute (GPI) for its substantial contributions to Decision (D.) 07-09-017 and D.08-03-018. This represents a decrease of \$1,392.50 from the amount requested due to adjustments to GPI representative's hourly rates. This award will be paid from the intervenor compensation program fund, pursuant to D.00-01-020. This proceeding remains open to consider issues in Phase 1 and Phase 2.

**1. Background**

In the Order Instituting Rulemaking (OIR) initiating Rulemaking (R.) 06-04-009, the California Public Utilities Commission (Commission or Public Utilities Commission) provided that Phase 2 would be used to implement a load-based Greenhouse Gas (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.<sup>1</sup>

On September 27, 2006, Governor Schwarzenegger signed into law Assembly Bill (AB 32), "The California Global Warming Solutions Act of 2006." This legislation requires California Air Resources Board (ARB) to adopt a GHG

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<sup>1</sup> In D.07-01-039 in Phase 1 of this proceeding, the Public Utilities Commission adopted a GHG emissions performance standard for new long-term financial commitments to baseload electricity generation. D.07-05-063 denied applications for rehearing of D.07-01-039. D.07-08-009 denied a petition for modification, but clarified how the adopted cogeneration thermal credit methodology will be applied to bottoming-cycle cogeneration. On February 13, 2008, SCE filed an amended Petition to Modify D.07-01-039, which is pending.

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,”<sup>2</sup> including both investor-owned utilities (IOUs) that the Commission regulates and publicly owned utilities (POUs).

As detailed in the Phase 2 scoping memo, the Public Utilities Commission and Energy Commission are undertaking 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. The Phase 2 scoping memo noted that the policies in D.06-02-032 issued in R.04-04-003 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.<sup>3</sup>

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<sup>2</sup> Phase 2 scoping memo, *mimeo.* at 8.

<sup>3</sup> *Id.*, *mimeo.* at 10-11.

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 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. D.06-10-020 amended the OIR, and the Public Utilities Commission specified that, with the passage of Senate Bill (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.<sup>4</sup> 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 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.

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<sup>4</sup> 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.

D.07-07-018 amended the OIR further to consider 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 Administrative Law Judge (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 a November 9, 2007 ALJ ruling, parties were provided an opportunity to file additional comments on issues regarding the type and point of regulation for the electricity sector.

By July 12, 2007 ALJ ruling, parties were directed 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 PHC was held on August 1, 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 is also addressing 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 is to take 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 are also considering the natural gas sector in their modeling process. However, separate, detailed modeling of the natural gas sector is not being undertaken. The modeling effort is examining 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 is also addressing the rate at which these types of reductions can be achieved, which will inform 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 such as reporting and verification requirements applicable to retail providers and marketers in the electricity sector.

On March 13, 2008, the Public Utilities Commission adopted D.08-03-018 that recommended ARB adopt a mix of direct mandatory/regulatory



requirements for the electricity and natural gas sectors and a cap-and-trade system that includes the electricity sector. D.08-03-018 provides a broad framework for regulating GHG emissions from the electricity and natural gas sectors, and the Commission anticipated that additional details and issues would be resolved in subsequent decisions.

## **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, pursuant to rule 17.1 of the Commission's Rules of Practice and Procedures (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).)
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 the first PHC in Phase 2 was held on November 28, 2006. GPI timely filed its NOI on June 9, 2006. In its NOI, GPI asserted financial hardship. GPI amended its NOI on March 6, 2007 to update its estimate of expenses associated with participation in Phase 2.

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 July 10, 2006, the assigned ALJ ruled that GPI is a customer pursuant to § 1802(b)(1)(C), and meets the financial hardship condition, pursuant to § 1802(g).<sup>5</sup>

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<sup>5</sup> *Administrative Law Judge’s Ruling Granting Notices of Intent to Claim Compensation*, July 10, 2006 in R.06-04-009.

GPI filed its request for compensation (Request) on May 7, 2008, within 60 days of D.08-03-018 being issued. No parties oppose GPI's Request.

In view of the above, we find that GPI 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. (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 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.<sup>6</sup>

GPI participated in Phase 2 of this proceeding by attending the Phase 2 PHC and workshops, and by filing several rounds of written pleadings on Phase 2 issues, including: PHC statements, post-workshop comments, opening and reply comments on several staff draft proposals and opening and reply

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<sup>6</sup> D.98-04-059, 79 CPUC2d 628 at 653.

comments on the proposed decision. As summarized in the Request, GPI's participation in Phase 2 made substantial contributions to D.07-09-017 and D.08-03-018 on several major areas, including reporting and tracking, determination of default emissions factors, statewide renewables penetration, cap-and-trade program design, allocation of emissions allowances, and point of regulation, among others. In the few instances where GPI did not specifically prevail on an issue, we benefited from GPI's analysis and discussion of all of the issues which it raised.

GPI made several substantial contributions to D.07-09-017. GPI argued that the role and need for regional GHG emissions reporting and verification systems should guide the development of reporting and verification protocols recommended to ARB. In particular, GPI urged the Public Utilities Commission and Energy Commission to design a protocol that could be adopted by other states, and to work with other states and neighboring provinces to design reporting and verification protocols that can and will be adopted by all. The Commission agreed with GPI on the need for a regional reporting and tracking system and directed Staff to support the California Environmental Protection Agency and ARB to lead a regional development effort through the Western Climate Initiative.

GPI's participation substantially contributed to the Commission's determination of the default emissions factors. Along with other parties, GPI argued against Staff's proposal to base emissions factors for unspecified power on a marginal-dispatch model because the model resulted in very low emissions factors for unspecified power from out-of-state sources. The Commission concluded in D.07-09-017 that using a higher default emission factor for unspecified sources would further the goal of accurate reporting by reducing the

incentive of out-state suppliers to mask high emissions resources as unspecified resources.

GPI made several substantial contributions to D.08-03-018. In particular, GPI's comments contributed substantially to our understanding and expanded our consideration of allowance allocation methodologies, the use of revenues generated by allowance distributions and the role of programmatic mandates in a cap-and-trade system. As in its comments on D.07-09-017, GPI's strong advocacy of a regional approach to GHG regulation reminded us that our recommendations to ARB will have an impact on the regional approach being pursued by the Western Climate Initiative. Finally, GPI substantially contributed to the Commission's determination that the natural gas sector should not be included initially in a cap-and-trade system. GPI argued persuasively that possibilities available to achieve GHG reductions were fundamentally different, and that the principal source of near-term GHG emissions reductions in the natural gas sector would be increased energy efficiency.

In the one instance noted in the decision where GPI's position was not adopted, GPI's participation still served to enhance the Commission's decision making. In particular, GPI advocated for a 33% stretch goal for renewables on the basis that the Energy Action Plan's preferred resource loading order states a preference for future development of renewable resources above fossil-fuel resources. While GPI's position was not adopted in D.08-03-018, the Commission did conclude that in order to meet AB 32 goals, investor owned and POUs should be required to go beyond the current 20% renewables goals. The Commission also concluded that a 33% stretch goal would contribute significantly to attainment of the emissions reductions required by AB 32 and

deferred, pending further analysis, the appropriate renewable resource goal. In sum, even though GPI did not prevail on this issue, its active participation convinced us that increasing renewables resource goals will be key to achieving the emission reductions required by AB 32.

The Commission has awarded full compensation even where the intervenor's positions were not adopted in full, especially in proceedings with a broad scope. (*See* D.98-04-028, 79 CPUC2d 570, 573-74.) As described above, GPI achieved a high level of success on the issues it raised during Phase 2. In the areas where we did not adopt GPI's position in whole or in part, we benefited from GPI's analysis and discussion of all of the issues that it raised.

## **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 its 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 research, analysis or arguments, we find that GPI 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**

GPI requests \$62,001 for its participation in this proceeding, as follows:

**Work on Proceeding**

| <b>Attorney/Staff</b> | <b>Year</b> | <b>Hours</b> | <b>Hourly Rate</b> | <b>Total</b>       |
|-----------------------|-------------|--------------|--------------------|--------------------|
| Gregory Morris        | 2006        | 13           | \$ 220.00          | \$ 2,860.00        |
| Gregory Morris        | 2007        | 217          | \$ 230.00          | \$49,910.00        |
| Gregory Morris        | 2008        | 21.5         | \$ 240.00          | \$ 5,160.00        |
| Valerie Morris        | 2007        | 34.5         | \$ 32.00           | \$ 1,104.00        |
| Zoë Harrold           | 2007        | 16           | \$ 32.00           | \$ 512.00          |
| <b>Subtotal:</b>      |             |              |                    | <b>\$59,546.00</b> |

**Preparation of NOI and Compensation Request**

| <b>Attorney/Staff</b>                | <b>Year</b> | <b>Hours</b> | <b>Houly Rate</b> | <b>Total</b>       |
|--------------------------------------|-------------|--------------|-------------------|--------------------|
| Gregory Morris                       | 2008        | 18.5         | \$120.00          | \$ 2,220.00        |
| <b>Subtotal Hourly Compensation:</b> |             |              |                   | <b>\$61,766.00</b> |
| <b>Expenses</b>                      |             |              |                   | <b>\$ 235.00</b>   |
| <b>Total Requested Compensation</b>  |             |              |                   | <b>\$62,001.00</b> |

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. GPI documented its claimed hours by presenting a daily breakdown of the hours of its staff, accompanied by a brief description of each activity. The hourly breakdown

reasonably supports the claim for total hours and those hours are reasonable given the scope of the proceeding, and the strong participation by the GPI.

## **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.

Dr. Morris acted in Phase 2 as both technical expert and participating party as Director of GPI. Dr. Morris is a renewable energy analyst and consultant with 25 years of diversified experience and accomplishments in the energy and environmental fields. He is a nationally recognized expert on biomass and renewable energy, climate change and GHG emissions analysis, integrated resources planning, and analysis of the environmental impacts of electric power generation. Dr. Morris holds a BA in Natural Science from the University of Pennsylvania, an MSc in Biochemistry from the University of Toronto, and a PhD in Energy and Resources from the University of California.

Dr. Morris has been actively involved in electric utility restructuring in California throughout the past decade. He served as editor and facilitator for the Renewables Working Group to this Commission in 1996, consultant to the California Energy Commission's Renewables Program Committee, and consultant to the Governor's Office of Planning and Research on renewable energy policy during the energy crisis years, and has provided expert testimony in a variety of regulatory and legislative proceedings, as well as in civil litigation.

In D.06-08-013, the Commission approved an hourly rate for GPI Director Dr. Morris of \$220 for 2006. GPI's Request for Phase 2 includes work performed by Dr. Morris during 2006, 2007, and 2008 in support of D.07-09-017 and D.08-03-018. Since we previously adopted the 2006 rate for Dr. Morris, we



approve its use here, as requested by GPI. For 2007, for Dr. Morris GPI requests a 3% cost-of living adjustment increase, which results in the rate of \$225.00 (we round expert's hourly rates to the nearest \$5.00<sup>7</sup>), the rate already adopted in D.08-09-036. For the year 2008, GPI also requests the of 3% cost-of-living adjustment, which results in the rate of \$230.00. These rates are consistent with the guidelines and rate ranges set forth in D.07-01-009 and D.08-04-010 and are adopted here.

In, D.07-12-007, the Commission approved an hourly rate for Research Associates Valerie Morris and Zoë Harrold of \$31 in 2006. GPI proposes a 3% increase in the rate (to \$32/hour) for the work of Valerie Morris and Zoë Harrold, who participated in Phase 2. These rates are consistent with the guidelines set forth in D.07-01-009, and 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.

GPI's emphasis in Phase 2 has been to provide information and insights about many aspects of the Commissions' GHG recommendations, particularly with respect to treatment of renewable resources. It concedes it cannot identify precise monetary benefits to ratepayers. However, the Commission's recommendations regarding design and implementation of a GHG regulatory

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<sup>7</sup> D.07-01-009, p. 8.

framework are premised, in part, on the assumption of reducing future costs of compliance with AB 32. We agree with GPI that the Commission's recommendations to ARB, improved by GPI's participation, will lead to the achievement of the state's GHG reduction goals to produce these substantial benefits, even though they are hard to quantify. Thus, we find that GPI's participation has been productive.

#### **6.4. Direct Expenses**

The itemized direct expenses submitted by GPI cover \$235 in expenditures for photocopying, postage and courier deliveries. The cost breakdown included with the request shows these miscellaneous expenses to be commensurate with the work performed. We find these costs reasonable.

**7. Award**

As set forth in the table below, we award \$60,608.50 to GPI:

| <b>Work on Proceeding</b>                          |             |              |                    |              |
|--|-------------|--------------|--------------------|--------------|
| <b>Attorney/Staff</b>                              | <b>Year</b> | <b>Hours</b> | <b>Hourly Rate</b> | <b>Total</b> |
| Gregory Morris                                     | 2006        | 13           | \$220.00           | \$           |
|  |             |              |                    | 2,860.00     |
| Gregory Morris                                     | 2007        | 217          | \$225.00           | \$           |
|  |             |              |                    | 48,825.00    |
| Gregory Morris                                     | 2008        | 21.5         | \$230.00           | \$           |
|  |             |              |                    | 4,945.00     |
| Valerie Morris                                     | 2007        | 34.5         | \$ 32.00           | \$           |
|  |             |              |                    | 1,104.00     |
| Zoë Harrold  | 2007        | 16           | \$ 32.00           | \$           |
|  |             |              |                    | 512.00       |
| <b>Subtotal:</b>                                   |             |              |                    | \$           |
|  |             |              |                    | 58,246.00    |
| <b>Preparation of NOI and Compensation Request</b> |             |              |                    |              |
| <b>Attorney/Staff</b>                              | <b>Year</b> | <b>Hours</b> | <b>Houly Rate</b>  | <b>Total</b> |
| Gregory Morris                                     | 2008        | 18.5         | \$115.00           | \$           |
|  |             |              |                    | 2,127.50     |
| <b>Subtotal Hourly Compensation:</b>               |             |              |                    | \$           |
|  |             |              |                    | 60,373.50    |
| <b>Expenses</b>                                    |             |              |                    | \$           |
|  |             |              |                    | 235.00       |
| <b>Total Requested Compensation</b>                |             |              |                    | \$60,608.5   |
|  |             |              |                    | 0            |

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 July 21, 2008, the 75th day after GPI 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. GPI'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.

## **8. Waiver of Comment Period**

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 waive the otherwise applicable 30-day public review and comment period for this decision.

## **9. Assignment of Proceeding**

Michael R. Peevey is the assigned Commissioner, and Charlotte F. TerKeurst and Jonathan Lakritz are the ALJs assigned to Phase 2 of this proceeding.

## **Findings of Fact**

1. GPI has satisfied all the procedural requirements necessary to claim compensation in this proceeding.
2. GPI made a substantial contribution to D.07-09-017 and D.08-03-018 as described herein.
3. GPI's requested hourly rates for its representatives, as adjusted herein, are reasonable when compared to the market rates for persons with similar training and experience.

4. GPI's requested related expenses are reasonable and commensurate with the work performed.

5. The total of the reasonable compensation is \$60,608.50.

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

### **Conclusions of Law**

1. GPI has fulfilled the requirements of Pub. Util. Code §§ 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.07-09-017 and D.08-03-018.

2. GPI should be awarded \$60,608.50 for its contribution to D.07-09-017 and D.08-03-018.

3. Pursuant to Rule 14.6(c)(6), the comment period for this compensation decision may be waived.

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

5. This proceeding should remain open to consider issues in Phase 1 and Phase 2.

### **O R D E R**

#### **IT IS ORDERED** that:

1. The Green Power Institute (GPI) is awarded \$60,608.50 as compensation for its substantial contributions to Decision (D.) 07-09-017 and D.08-03-018.

2. Within 30 days of the effective date of this decision, GPI'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 July 21, 2008, the 75th day after the filing date of GPI's request for compensation, and continuing until full payment is made.

3. The comment period for today's decision is waived.
4. Rulemaking 06-04-009 remains open.

This order is effective today.

Dated November 6, 2008, 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**

|                                  |                            |                              |
|----------------------------------|----------------------------|------------------------------|
| <b>Compensation Decision:</b>    | D0811029                   | <b>Modifies Decision?</b> No |
| <b>Contribution Decision(s):</b> | D0709017 and D0803018      |                              |
| <b>Proceeding(s):</b>            | R0604009                   |                              |
| <b>Author:</b>                   | ALJs TerKeurst and Lakritz |                              |
| <b>Payer(s):</b>                 | Commission                 |                              |

**Intervenor Information**

| <b>Intervenor</b>         | <b>Claim Date</b> | <b>Amount Requested</b> | <b>Amount Awarded</b> | <b>Multiplier?</b> | <b>Reason Change/Disallowance</b> |
|---------------------------|-------------------|-------------------------|-----------------------|--------------------|-----------------------------------|
| The Green Power Institute | 5/7/08            | \$62,001.00             | \$60,608.50           | No                 | Adjusted hourly rates             |
|                           |                   |                         |                       |                    |                                   |

**Advocate Information**

| <b>First Name</b> | <b>Last Name</b> | <b>Type</b>             | <b>Intervenor</b>         | <b>Hourly Fee Requested</b> | <b>Year Hourly Fee Requested</b> | <b>Hourly Fee Adopted</b> |
|-------------------|------------------|-------------------------|---------------------------|-----------------------------|----------------------------------|---------------------------|
| Gregory           | Morris           | Policy Expert/Scientist | The Green Power Institute | \$220.00                    | 2006                             | \$220.00                  |
| Gregory           | Morris           | Policy Expert/Scientist | The Green Power Institute | \$230.00                    | 2007                             | \$225.00                  |
| Gregory           | Morris           | Policy Expert/Scientist | The Green Power Institute | \$240.00                    | 2008                             | 230.00                    |
| Valerie           | Morris           | Research Assistant      | The Green Power Institute | \$32.00                     | 2007                             | \$32.00                   |
| Zoe               | Harrold          | Research Assistant      | The Green Power Institute | \$32.00                     | 2007                             | \$32.00                   |

**(END OF APPENDIX A)**