

Decision 09-03-020 March 12, 2009

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

Application of Pacific Gas and Electric Company  
for Authorization to Enter into Long-Term  
Natural Gas Transportation Arrangements with  
Ruby Pipeline, for Cost Recovery in PG&E's Gas  
and Electric Rates and Nonbypassable  
Surcharges, and for Approval of Affiliate  
Transaction. (U39G and U39E)

Application 07-12-021  
(Filed December 21, 2007)

**DECISION GRANTING INTERVENOR COMPENSATION TO L. JAN REID  
FOR SUBSTANTIAL CONTRIBUTIONS TO DECISION 08-11-032**



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**DECISION GRANTING INTERVENOR COMPENSATION TO L. JAN REID  
FOR SUBSTANTIAL CONTRIBUTIONS TO DECISION 08-11-032**

**Summary**

This decision awards \$22,471.50 to L. Jan Reid (Reid) for his substantial contributions to Decision (D.) 08-11-032. The amount awarded is \$89,960.98 (80%) less than Reid requested because most of his work did not result in a substantial contribution to D.08-11-032. Today's award will be paid by Pacific Gas and Electric Company. This proceeding remains open to address (1) requests for compensation submitted by other intervenors, and (2) an application to rehear D.08-11-032 filed by Gas Transmission Northwest Corporation.

**1. Background**

In Decision (D.) 08-11-032, the Commission granted the application filed by Pacific Gas and Electric Company (PG&E) for authority to contract for long-term capacity on the proposed Ruby Pipeline. If built, the Ruby Pipeline will transport gas from Wyoming to Malin, Oregon, where it will interconnect with PG&E's system. The Ruby Pipeline will be owned and operated by Ruby Pipeline, LLC (Ruby LLC), a subsidiary of El Paso Corporation (El Paso).

PG&E's application was opposed by Reid and Gas Transmission Northwest Corporation (GTN). Most of the arguments they raised against PG&E's application were rejected by the Commission in D.08-11-032. GTN filed an application to rehear D.08-11-032, which remains pending.

Reid requests intervenor compensation for his participation in this proceeding. The intervenor compensation program, which is set forth in Pub. Util. Code §§ 1801-1812, requires utilities subject to the Commission's jurisdiction to pay the reasonable costs that intervenors incur for their substantial contributions to Commission proceedings. Utilities may recover from their



customers the amounts awarded to intervenors. All of the following requirements must be satisfied for an intervenor to receive compensation:

1. The intervenor must file a satisfactory notice of intent (NOI) to claim compensation within 30 days of the prehearing conference (PHC), pursuant to Rule 17.1 of the Commission's Rules of Practice and Procedure (Rules), or at another time specified by the Commission. (Pub. Util. Code § 1804(a).<sup>1</sup>)
2. The intervenor must be a utility customer or a participant representing utility customers. (§ 1802(b).)
3. The intervenor must file a request for compensation within 60 days of the final decision in a proceeding. (§ 1804(c).)
4. The intervenor must demonstrate significant financial hardship. (§§ 1802(g) and 1804(b)(1).)
5. The intervenor must have made a substantial contribution through the adoption, in whole or in part, of the intervenor's contentions or recommendations by a Commission decision or as otherwise found by the Commission. (§§ 1802(i) and 1803(a).)
6. The intervenor's claimed fees and costs must be reasonable (§ 1801), necessary for the substantial contribution (D.98-04-059), comparable to the market rates paid to others with similar training and experience (§ 1806), and productive (D.98-04-059).

The procedural requirements in Items 1-4 above are addressed immediately below. Items 5-6 are addressed later in today's decision.

## **2. Procedural Requirements**

Under § 1804(a)(1) and Rule 17.1(a)(1), a customer who intends to seek intervenor compensation must file an NOI by certain deadlines. In a proceeding in which a PHC is held, intervenors must file and serve their NOIs no later than

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<sup>1</sup> All subsequent statutory references are to the Public Utilities Code unless otherwise indicated.



30 days after the PHC is held. (Rule 17.1(a)(1).) The PHC in this proceeding was held on February 29, 2008. Reid filed a timely NOI on March 27, 2008.

Reid asserted financial hardship in his NOI. On April 15, 2008, the assigned Administrative Law Judge (ALJ) ruled that Reid satisfies the financial hardship condition pursuant to § 1802(g).

Section 1802(b)(1) defines a “customer” as one of the following: (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 by its articles of incorporation or bylaws to represent the interests of residential or small business customers.

(§ 1802(b)(1)(A) through (C).) On April 15, 2008, the ALJ issued a ruling that found Reid is a customer pursuant to § 1802(b)(1)(A).

Reid filed his request for compensation on January 6, 2009, within 60 days of D.08-11-032 being issued.<sup>2</sup> Thus, the request is timely under § 1804(c). On January 20, 2009, GTN filed a response supporting Reid’s request. PG&E filed a response opposing Reid’s request on February 3, 2009. Reid and Aglet Consumer Alliance (Aglet) filed a joint reply to PG&E on February 18, 2009.

In view of the above, we find that Reid has satisfied all the procedural requirements necessary to request intervenor compensation in this proceeding.

### **3. Substantial Contribution**

The Commission considers two primary factors in deciding whether a customer made a substantial contribution to a proceeding. The first is whether the Commission adopted any of the customer’s factual assertions, legal contentions, policy proposals, or procedural recommendations. (§ 1802(i).) The

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<sup>2</sup> D.08-11-032 was issued on November 7, 2009.



second is whether the customer's participation overlapped that of another party and, if so, whether the customer's participation unnecessarily duplicated or materially supplemented, complemented, or contributed to the presentation of the other party. (§§ 1801.3(f) and 1802.5.)

The determination of whether the customer made a substantial contribution is a matter 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>3</sup>

Reid claims that he made substantial contributions in ten areas. First, Reid proposed that the Commission require PG&E to submit Firm Transportation Service Agreements (FTSAs) for Commission approval.<sup>4</sup> D.08-11-032 adopted his proposal.<sup>5</sup> We agree that Reid made a substantial contribution on this matter.

Second, Reid asserted that the proposed Ruby Pipeline is a commercially viable project.<sup>6</sup> D.08-11-032 agreed in Finding of Fact 17.<sup>7</sup> We find that Reid made a substantial contribution on this matter.

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<sup>3</sup> D.98-04-059, 79 CPUC2d 628 at 653.

<sup>4</sup> D.08-11-032, p. 107.

<sup>5</sup> D.08-11-032, Ordering Paragraph 3.i, p. 117.

<sup>6</sup> D.08-11-032, p. 76.

<sup>7</sup> D.08-11-032, Finding of Fact 17, p. 114.



Third, Reid argued that PG&E improperly collaborated with its parent company during negotiations with Ruby LLC.<sup>8</sup> D.08-11-032 agreed, in part, stating in Finding of Fact 21 that “There was a conflict of interest between PG&E’s customers and PG&E’s shareholders when PG&E Corporation was offered, and then obtained, an option to acquire an ownership stake in the Ruby Pipeline while PG&E was negotiating with Ruby LLC.”<sup>9</sup> We find that Reid made a substantial contribution on this matter.

Fourth, Reid contended that the Commission should not try to determine the exact cost of the Ruby Pipeline project. Rather, the Commission should determine whether project costs will be so high that Ruby LLC will likely abandon the project.<sup>10</sup> D.08-11-032 agreed, stating in Conclusion of Law 13 that the “reasonableness of Ruby’s estimated pipeline construction costs is relevant to this proceeding only to the extent it raises doubts about Ruby’s ability to attract sufficient capacity commitments to go forward with the project.”<sup>11</sup> We find that Reid made a substantial contribution on this matter.

Fifth, Reid asserted that PG&E’s Electric Fuels Department independently derived its need for Ruby Pipeline capacity.<sup>12</sup> D.08-11-032 agreed, stating in Finding of Fact 22 that “PG&E maintained a reasonable level of separation between Core Gas Supply and Electric Fuels during negotiations with Ruby LLC.”<sup>13</sup> We find that Reid made a substantial contribution on this issue.

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<sup>8</sup> D.08-11-032, pp. 81, 84, and 85.

<sup>9</sup> D.08-11-032, Finding of Fact 21, p. 113.

<sup>10</sup> Exhibit LJR-1, p. 17.

<sup>11</sup> D.08-11-032, Conclusion of Law 13, p. 117.

<sup>12</sup> D.08-11-032, p. 90.

<sup>13</sup> D.08-11-032, Finding of Fact 22, p. 114.



Sixth, Reid states that he opposed PG&E's motion to strike the testimony of Southern California Gas Company and San Diego Gas & Electric Company (SoCalGas/SDG&E). Reid argued that:

The subject testimony is within the scope of this proceeding because the testimony addresses the issue of the overall costs and benefits of the Ruby pipeline project. (Response of L. Jan Reid to PG&E's Motion to Strike the Testimony of SoCalGas/SDG&E, June 7, 2008, p. 2. )

The assigned ALJ effectively agreed with Reid when he ruled that:

SoCalGas/SDG&E's testimony may be divided into two pieces for the purpose of this ruling. The first piece addresses the additional costs that SoCalGas/SDG&E may incur to transport gas on the GTN system if PG&E reduces its capacity on the GTN system. This matter is squarely within the scope of this proceeding, as set forth in Scoping Memo Issue 4(d). Therefore, PG&E's motion to strike this piece of SoCalGas/SDG&E's testimony is denied. (Administrative Law Judge's Ruling Granting In Part and Denying In Part the Motion to Strike Filed by PG&E, June 17, 2008, p. 7.)

We find that Reid made a substantial contribution on the above matter.

Seventh, Reid recommended that the Commission "require El Paso to file an annual compliance report that explains (1) whether El Paso has complied with U.S. Department of Transportation (DOT) pipeline regulations, and (2) any relevant findings by DOT related to DOT regulations.<sup>14</sup>" While D.08-11-032 did not adopt Reid's proposal, it did order PG&E to "provide prompt responses to Commission requests for information regarding outages on the Ruby Pipeline.<sup>15</sup>" We find that Reid made a substantial contribution to the resolution of this issue.

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<sup>14</sup> D.08-11-032, p. 107.

<sup>15</sup> Ordering Paragraph 3.xii, D.08-11-032, p. 119.



Eighth, Reid claims he made a substantial contribution to the following highlighted portions of the dicta on page 22 of D.08-11-032 and Finding of Fact 2:

**Dicta on p. 22 of D.08-11-032:** “We disagree with Reid’s assessment that PG&E’s justification for the proposed Ruby capacity amounts to speculation in energy markets. The fundamental purpose of the proposed Ruby capacity is to diversify away from PG&E’s disproportionate reliance on Canadian gas supplies in order to reduce portfolio risk. **Reid’s own analysis shows that it is cost effective for PG&E to reduce portfolio risk by acquiring Ruby capacity.**” (Emphasis added. Footnote in original omitted.)

**Finding of Fact 2:** “PG&E has a need to diversify away from its heavy reliance on declining WCSB gas supplies. **PG&E’s proposed gas transportation arrangements on the Ruby Pipeline and PG&E’s Redwood path that are described in A.07-12-021 provide a reasonable and cost-effective means for doing so.**<sup>16</sup>” (Emphasis added.)

We find that Reid did not make a substantial contribution in this area. The dicta on page 22 of D.08-11-032, quoted above, notes a contradiction in Reid’s presentation. The noted contradiction does not constitute a substantial contribution to D.08-11-032. In addition, the Commission’s determination in Finding of Fact 2 that PG&E’s proposed gas transportation arrangements are reasonable and cost effective is based on briefs and evidence submitted by PG&E, Ruby LLC, the Division of Ratepayer Advocates (DRA), and The Utility Reform Network (TURN).<sup>17</sup> Reid opposed the gas transportation arrangements

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<sup>16</sup> D.08-11-032, Finding of Fact 2, p. 111.

<sup>17</sup> See, generally, D.08-11-032, pp. 19-21 and 23-27.



described in Finding of Fact 2,<sup>18</sup> and his participation was not a factor in the development of Finding of Fact 2.

Ninth, Reid alleged that PG&E's motivation for acquiring Ruby capacity was PG&E's belief that Rocky Mountain gas will be cheaper than Canadian gas. Reid saw this as improper speculation in energy markets with ratepayer funds.<sup>19</sup> Reid states that although the Commission did not agree with him on this issue, he nevertheless made a substantial contribution. We disagree. The Commission held in D.08-11-032 that there was no evidence of the market speculation alleged by Reid.<sup>20</sup> Consequently, we find that Reid did not make a substantial contribution on this matter.

Finally, Californians for Renewable Energy (CARE) argued in its opening brief that "The transcripts of the cross examination of PG&E's witnesses concerning their conduct in negotiating the agreement with Ruby should not be included in the record...."<sup>21</sup> Reid opposed CARE's suggestion.<sup>22</sup> Reid claims that he made a substantial contribution on this issue because the Commission did not strike portions of the transcript as requested by CARE. We disagree. The Commission never addressed CARE's recommendation in D.08-11-032 or elsewhere. Consequently, there is no basis to conclude that Reid made a substantial contribution on this matter.

In sum, we find that Reid made a substantial contribution to this proceeding in seven of the ten areas claimed by Reid.

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<sup>18</sup> Reid Opening Brief, p. iv, and Reid Reply Brief, p. iii.

<sup>19</sup> D.08-11-032, p. 19.

<sup>20</sup> D.08-11-032, p. 22.

<sup>21</sup> CARE Opening Brief, p. 2.

<sup>22</sup> Reid Reply Brief, pp. 11-13.



#### 4. Duplication

Section 1801.3(f) provides that an intervenor will not be compensated for participation that (1) duplicates that of other parties representing similar interests, or (2) is unnecessary for a fair determination of the proceeding. However, if there is overlapping participation between parties, § 1802.5 provides that an intervenor may be eligible for compensation if its participation materially supplements, complements, or contributes to the presentation of another party.

We find that Reid neither duplicated the work of other parties representing similar interests nor participated in this proceeding in a way that was unnecessary for a fair determination of the proceeding.

#### 5. Reasonableness of Requested Compensation

We next assess whether the amount of the compensation requested is reasonable. Reid requests \$112,432.48 as follows:

Claimed Work on Proceeding				
Person	Year	Hours	Hourly Rate	Total
Reid's Professional Time	2007	2.2	\$170	\$ 374.00
Reid's Professional Time	2008	605.3	\$185	\$111,980.50
<b>Subtotal:</b>		<b>607.5</b>		<b>\$112,354.50</b>
<b>Expenses</b>				\$77.98
<b>Total Requested Compensation</b>				<b>\$112,432.48</b>

Unlike many intervenors, Reid does not request compensation for time spent preparing his NOI and request for compensation.

##### 5.1. Claimed Hours

To determine whether the requested compensation is reasonable, we first assess whether the hours claimed are related to the work performed and necessary for the substantial contribution.



Reid documented his 607.5 of claimed hours by presenting a daily listing of the hours he spent on this proceeding, accompanied by a brief description of each task performed and the specific issue (identified by Reid) the task addresses.<sup>23</sup> Reid's breakdown of claimed hours by issue is as follows:

<b>Reid's Allocation of Time by Major Issue</b>			
<b>Issue Category</b>	<b>2007 Hours</b>	<b>2008 Hours</b>	<b>Total</b>
General Work	2.2	278.2	280.4
Speculation		10.1	10.1
Commercial Viability		33.7	33.7
Conflict of Interest		109.0	109.0
Cost Effectiveness		145.6	145.6
Electric Fuels		0.8	0.8
FTSA		6.6	6.6
Outage Reports		14.7	14.7
Other Issues <sup>24</sup>		6.6	6.6
<b>Total</b>	<b>2.2</b>	<b>605.3</b>	<b>607.5</b>

We assume that the 607.5 hours claimed by Reid represents all of the time he spent on this proceeding, with the exception of time spent preparing his NOI and request for intervenor compensation. As mentioned previously, Reid does not request compensation for the time he spent preparing his NOI and request for compensation.

Although we find that Reid made several substantial contributions to this proceeding, these contributions constituted only a small part of Reid's

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<sup>23</sup> Reid's claimed hours include 1.1 hours in May and June 2009. We assume that Reid meant to label these hours as having been expended in May and June 2008.

<sup>24</sup> Other Issues includes responding to motions filed by other parties.



participation. The great majority of Reid's participation was devoted to advancing his recommendations listed below<sup>25</sup>:

1. The Commission should reject PG&E's application in its entirety.
2. The Commission should reprimand PG&E for its alleged anti-competitive behavior.
3. The Commission should require PG&E to obtain requests for offers (RFO) when purchasing pipeline capacity for a term of more than three years or a quantity of more than 100 million cubic feet per day.
4. The Commission should order PG&E to retain an Independent Evaluator to ensure that the above mentioned RFO is fair.
5. The Commission should prohibit PG&E from employing anyone who is also employed by PG&E Corp.
6. The Commission should prohibit PG&E from having a member of its Utility Risk Management Committee (URMC) who is also a member of PG&E Corp.'s Risk Management Committee.
7. The Commission should prohibit PG&E from having a member of its URMC who is employed by PG&E Corp.
8. The Commission should require PG&E to file a compliance advice letter informing the Commission it has have complied with the above requirements.
9. If the Commission approves PG&E's application, the Commission should require El Paso to file an annual compliance report with that explains whether El Paso has complied with U.S. DOT pipeline regulations and explain any relevant findings by the DOT related to DOT regulations.
10. If the Commission approves PG&E's application, the Commission should require PG&E to submit FTSA's for Commission approval.

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<sup>25</sup> Reid Opening Brief, p. iv; and Reid Reply Brief, p. iii.



D.08-11-032 adopted only one of Reid's recommendations listed above (i.e., Recommendation 10) and rejected the rest. We conclude that Reid did not make a substantial contribution with respect to those recommendations that were rejected by D.08-11-032. We recognize, however, that a small portion of the time that Reid spent on his recommendations was necessary for his substantial contributions in other areas. For example, Reid recommended that the Commission require El Paso to file reports about its compliance with DOT regulations. While D.08-11-032 rejected the recommendation, the recommendation led to D.08-11-032 ordering PG&E to provide prompt responses to Commission requests for information about outages on the Ruby Pipeline.

Reid did not itemize his time in a way that allows us to readily determine what portion of his 607.5 of claimed hours is related to his substantial contributions. In order to make this determination, we have reviewed Reid's prepared written testimony, his many hours of cross examination, and his briefs. Based on our review, we conclude that 80% of Reid's claimed hours are unrelated to his substantial contributions. The following table shows our calculation of the portion of the hours claimed by Reid that are reasonably related to, and necessary for, his substantial contributions to D.08-11-032:

	<b>2007</b>	<b>2008</b>	<b>Total</b>
Claimed Hours	2.2	605.3	607.5
80% Disallowance	(1.8)	(484.2)	(486.0)
<b>Reasonable &amp; Necessary Hours</b>	<b>0.4</b>	<b>121.1</b>	<b>121.5</b>

## 5.2. Hourly Rates

We next consider if Reid's claimed fees are comparable to the market rates paid to experts with comparable training and experience and offering similar



services. Reid requests hourly rates of \$185 for work performed in 2008 and \$170 for work performed in 2007. We previously approved Reid's requested hourly rates in D.08-11-054 and D.07-05-037. We adopt those rates here.

### **5.3. Direct Expenses**

Reid's request for direct expenses is limited to \$77.98 for computer rental. We decline to grant the request. An intervenor's professional fees are set to recover overhead and administrative costs.<sup>26</sup> Costs for computer equipment are an overhead expense and, therefore, are recovered through Reid's hourly rate.

### **5.4. Productivity**

The costs of a customer's participation should bear a reasonable relationship to the benefits realized through their participation. To achieve this goal, D.98-04-059 directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers.<sup>27</sup>

As set forth below, today's decision awards \$22,471.50 to Reid for his substantial contributions to D.08-11-032. However, the benefits of Reid's substantial contributions are intangible in nature and, therefore, the monetary benefits cannot be readily quantified. While we cannot quantify the benefits of Reid's substantial contributions, we believe it is likely that the future benefits to ratepayers will exceed the amount awarded to Reid by today's decision.

## **6. Award**

We award \$22,471.50 to Reid as set forth in the following table:

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<sup>26</sup> See, e.g., D.08-07-019, p. 16; and D.07-04-010, p. 12.

<sup>27</sup> D.98-04-059, pp. 34-35.



**Calculation of Amount Awarded to L. Jan Reid**

	<b>Year</b>	<b>Hours</b>	<b>Hourly Rate</b>	<b>Total</b>
Reid Professional Fees	2007	0.4	\$170	\$ 68.00
Reid Professional Fees	2008	121.1	\$185	\$22,403.50
Direct Expenses	--	--	--	\$0
<b>TOTAL AWARD</b>				<b>\$22,471.50</b>

PG&E shall pay the award to Reid pursuant to § 1807. Consistent with previous Commission decisions, PG&E shall also pay interest on the award equal to the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15, commencing on March 22, 2009, the 75th day after Reid filed his compensation request, and continuing until full payment of the award is made.

**7. Comments on the Proposed Decision**

The proposed decision (PD) of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311 and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure.

Comments were filed jointly by Reid and Aglet (together, "Reid/ Aglet") on February 25, 2009. There were no reply comments.

Reid/ Aglet argue that the PD contains six errors. First, they contend that the PD used a "win-or-don't-get-paid standard" when it states:

D.08-11-032 adopted only one of Reid's recommendations listed above (i.e., Recommendation 10) and rejected the rest. We conclude that Reid did not make a substantial contribution with respect to those recommendations that were rejected by D.08-11-032.

Reid/ Aglet assert the "win-or-don't-get-paid standard" is a novel approach that will have a chilling effect on the intervenor compensation program.



Reid/Aglet misconstrue the intervenor compensation program. The determination of whether an intervenor has made a substantial contribution is a matter of judgment.<sup>28</sup> It is our judgment that Reid did not make a substantial contribution to D.08-11-032 with respect to his recommendations that were rejected by D.08-11-032. It would be an abuse of the intervenor compensation program and contrary to §§ 1801 et seq., to compensate Reid for participation that did not result in a substantial contribution.

Second, Reid/Aglet argue that the PD improperly disallowed 80% of Reid's hours for "general work." They define "general work" as time that cannot be assigned to individual issues, such as an initial review of a utility's application and preliminary discovery efforts. Of the 607.5 hours claimed by Reid, 278.2 hours are for general work. Reid/Aglet assert that it is the Commission's practice to compensate intervenors for general work. We disagree. The Commission has repeatedly held that it may disallow compensation for general work.<sup>29</sup> In this case, it is our judgment that most of the 278.2 hours of general work claimed by Reid was not reasonably related to, or necessary for, his limited substantial contributions to this proceeding.

Third, the PD found that Reid made a substantial contribution in seven of the ten areas claimed by Reid. Reid/Aglet contend that all of the 607.5 hours claimed by Reid was spent on these ten areas, and that only 10.1 hours should be disallowed for the three areas in which Reid did not make a substantial contribution. We disagree that Reid spent 607.5 hours on these ten areas. As explained previously, most of Reid's participation in this proceeding was

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<sup>28</sup> D.98-04-059, 79 CPUC2d 628 at 653.

<sup>29</sup> D.07-12-026, pp. 22-23; D.07-05-043, p. 22; D.07-05-037, pp. 14-15; D.89-09-103, 1989 Cal. PUC LEXIS 477, \*3; and D.85-08-012, 1985 Cal. PUC LEXIS 652, \*23.



devoted to recommendations that were not adopted by D.08-11-032 and which did not result in a substantial contribution.

Fourth, Reid/Aglet assert that the PD erred by finding that Reid did not make a substantial contribution with respect to the following highlighted dicta on page 22 of D.08-11-032:

**We disagree with Reid's assessment that PG&E's justification for the proposed Ruby capacity amounts to speculation in energy markets.** The fundamental purpose of the proposed Ruby capacity is to diversify away from PG&E's disproportionate reliance on Canadian gas supplies in order to reduce portfolio risk. **Reid's own analysis shows that it is cost effective for PG&E to reduce portfolio risk by acquiring Ruby capacity.** (Emphasis added. Footnote in original omitted.)

The highlighted dicta notes a contradiction in Reid's presentation. This contradiction does not constitute a substantial contribution to D.08-11-032. Reid/Aglet argue there is no contradiction because D.08-11-032 misconstrued Reid's position. We disagree. We have reviewed the record and find that D.08-11-032 provides an accurate representation of Reid's position.

Fifth, Reid/Aglet contend that the PD erred by finding that Reid's testimony was not the basis for Finding of Fact 22, which states as follows:

PG&E has a need to diversify away from its heavy reliance on declining WCSB gas supplies. **PG&E's proposed gas transportation arrangements on the Ruby Pipeline and PG&E's Redwood path that are described in A.07-12-021 provide a reasonable and cost-effective means for doing so.** (Emphasis added.)

Reid/Aglet believe that because Reid testified that PG&E's proposed contract with Ruby LLC is cost effective for ratepayers, the Commission must have relied Reid's testimony when it wrote Finding of Fact 2. We disagree. D.08-11-032 cites DRA, TURN, PG&E, and Ruby LLC as the sources for its



finding that the proposed Ruby contract is cost effective.<sup>30</sup> This finding was key to the Commission's decision to approve the proposed contract. D.08-11-032 never cites Reid's testimony as the basis for its finding. This is not surprising given that Reid asserted in his opening brief that his analysis of the cost effectiveness of the Ruby contract provided "supporting evidence for [his] recommendations," which included his recommendation that the "Commission should reject PG&E's application in its entirety."<sup>31</sup>

Finally, Reid/Aglet argue that the PD was issued just two days after PG&E served its response to Reid's request for compensation and 13 days before the deadline for Reid/Aglet to file a reply to PG&E's response. They argue that because the PD was issued before Reid/Aglet could reply, the PD was based on an incomplete record. This issue is moot, as today's decision is being issued after all responses and replies have been filed, and is thus based on a complete record.

## **8. Assignment of the Proceeding**

Timothy Alan Simon is the assigned Commissioner for Application 07-12-021 and Timothy Kenney is the assigned ALJ.

## **Findings of Fact**

1. Reid has satisfied all of the procedural requirements necessary to claim intervenor compensation in this proceeding.
2. Reid made substantial contributions to D.08-11-032 as described herein.
3. Most of the hours claimed by Reid are not reasonably related to, or necessary for, his substantial contributions to D.08-11-032.

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<sup>30</sup> The Commission's analysis of the cost effectiveness of the proposed Ruby contract is contained on pages 17 - 27 of D.08-11-032.

<sup>31</sup> Reid Opening Brief, pp. iv and 9.



4. An intervenor's professional fees are set by the Commission to recover all overhead and administrative costs.

5. The direct expenses claimed by Reid are an overhead cost.

6. The total reasonable compensation for Reid's substantial contributions to D.08-11-032 is \$22,471.50. The amount awarded to Reid is summarized in the Appendix attached to today's decision.

### **Conclusions of Law**

1. Reid has fulfilled the requirements of §§ 1801-1812, which governs awards of intervenor compensation, and is entitled to intervenor compensation for his claimed expenses, as adjusted herein, incurred in making substantial contributions to D.08-11-032.

2. Reid should be awarded \$22,471.50 for his substantial contributions to D.08-11-032.

3. The following Order should be effective immediately so that Reid may be compensated as soon as reasonably possible.

## **O R D E R**

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

1. L. Jan Reid (Reid) is awarded \$22,471.50 in compensation for his substantial contributions to Decision 08-11-032.

2. Pacific Gas and Electric Company shall pay Reid the total award within 30 days of the effective date of this Order. 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 March 22, 2009, and continuing until full payment is made.



3. This proceeding remains open to address other pending matters.

This Order is effective today.

Dated March 12, 2009, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners



**APPENDIX****Compensation Decision Summary Information**

<b>Compensation Decision:</b>	D0903020	<b>Modifies Decision?</b> N
<b>Contribution Decision(s):</b>	D0811032	
<b>Proceeding(s):</b>	A0712021	
<b>Author:</b>	ALJ Kenney	
<b>Payer(s):</b>	Pacific Gas and Electric Company	

**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>
L. Jan Reid	1/6/2009	\$112,432.48	\$22,471.50	No	Failure to make substantial contribution; inappropriately claimed expenses.

**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>
L. Jan	Reid	Analyst/ Policy Expert	Self	\$170	2007	\$170
L. Jan	Reid	Analyst/ Policy Expert	Self	\$185	2008	\$185

**(END OF APPENDIX)**