

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion to Consider Effectiveness and Adequacy of the Competitive Bidding Rule for Issuance of Securities and Associated Impacts of General Order 156, Debt Enhancement Features, and General Order 24-B.	Rulemaking 11-03-007 (Filed March 10, 2011)
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**INTERVENOR COMPENSATION CLAIM OF The Greenlining Institute
AND DECISION ON INTERVENOR COMPENSATION CLAIM OF The
Greenlining Institute**

Claimant: The Greenlining Institute	For contribution to D.12-06-015
Claimed (\$): \$4,428.00	Awarded (\$):
Assigned Commissioner: Timothy A. Simon	Assigned ALJ: Seaneen M. Wilson
I hereby certify that the information I have set forth in Parts I, II, and III of this Claim is true to my best knowledge, information and belief. I further certify that, in conformance with the Rules of Practice and Procedure, this Claim has been served this day upon all required persons (as set forth in the Certificate of Service attached as Attachment 1).	
Signature:	/s/ Stephanie C. Chen
Date: 8/6/12	Printed Name: Stephanie C. Chen

PART I: PROCEDURAL ISSUES (to be completed by Claimant except where indicated)

A. Brief Description of Decision:	D.12-06-015 authorizes a Financing Rule, which replaces the Competitive Bidding Rule authorized in Resolution F-616 in 1986.
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B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	Aug. 8, 2011	
2. Other Specified Date for NOI:	n/a	
3. Date NOI Filed:	May 9, 2011	
4. Was the NOI timely filed?		
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	R.10-02-005	
6. Date of ALJ ruling:	March 29, 2010	
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		
Showing of "significant financial hardship" (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.08-12-009	
10. Date of ALJ ruling:	June 29, 2010	
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.12-06-015	
14. Date of Issuance of Final Order or Decision:	June 7, 2012	
15. File date of compensation request:	Aug. 6, 2012	
16. Was the request for compensation timely?		

C. Additional Comments on Part I (use line reference # as appropriate):

#	Claimant	CPUC	Comment

PART II: SUBSTANTIAL CONTRIBUTION (to be completed by Claimant except where indicated)

A. In the fields below, describe in a concise manner Claimant’s contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059). (For each contribution, support with specific reference to the record.)

Contribution	Specific References to Claimant’s Presentations and to Decision	Showing Accepted by CPUC
<p>A. Promoting the use of diverse financial services companies (GO 156)</p> <p>GO 156 and the use of diverse financial service providers was a stated purpose of the rulemaking, and one of the issues that prompted Commissioner Simon to open it.</p> <p>Greenlining advocated for various tools intended to promote use of diverse financial services providers, including setting DBE procurement goals specific to financial services.</p> <p>Greenlining also argued for unbundling of financial service contracts and for DBE financial service providers to consider partnering with peer organizations to increase their collective capacity, to meet the utilities’ needs. Further, Greenlining argued that the utilities need to share information and best practices with respect to utilizing diverse financial services companies.</p> <p>Greenlining argued that supplier diversity language should be written into underwriter contracts, the same way it is written in for other prime suppliers of non-financial services. This increases the divers spend the prime contractors engage in, which benefits utilities and ratepayers, but also gives smaller DBEs an opportunity to get into the utility supply chain on a smaller scale to start.</p> <p>In reply, Greenlining agreed that replacing the CBR with a negotiated bidding process would be the best way to open up</p>	<p>OIR, pp. 1-3; Workshop Report (Opening Remarks of Commissioner Simon), pp. 2-3, 14.</p> <p>Opening Comments on OIR, pp. 2, 7; Reply Comments on OIR, pp. 2.</p> <p>Opening Comments on OIR, pp. 6, 9.</p> <p>Opening Comments on OIR, pp. 7-8.</p> <p>Reply Comments on OIR, p. 3.</p>	

<p>opportunities for emerging firms. Greenlining argued that, to further pursue the goal of inclusion, GO 156 goals and reporting should be a part of all negotiated transactions.</p> <p>Greenlining further argued for transparency and reporting as a way to best understand the current marketplace, and also to spur progress in procurement with diverse financial services providers, in the same way that reporting under GO 156 has increased diverse procurement generally. Greenlining engaged in debate at the workshop on whether reporting should be required as part of the financing rule, or maintained under GO 156. Our position was to support the version that provided the greatest incentive to utilize DBE firms, but without risking cost increases, unnecessary administration, or conflict in individual financing deals.</p> <p>Further, Greenlining submitted that no rule on its own will be effective unless the Commission itself emphasizes DBE participation.</p> <p>D.12-06-015 required utilities to encourage, assist, and recruit Women-, Minority-, and Disabled Veteran-Owned Business Enterprises in being appointed as lead underwriter, book runner, or co-manager of debt offerings.</p> <p>It noted that financial services are still an underutilized area of utilities' DBE spending, and that neither the CBR nor GO 156 addresses the use of WMDVBE firms in debt issuances.</p> <p>It also noted that the new Financing Rule will provide for better engagement of WMDVBE firms, who have a track record of competitive performance as well as being generally more reflective of California's population.</p> <p>D.12-06-015 adds a section to the Financing Rule that promotes additional</p>	<p>Reply Comments on OIR, pp. 5-6; Workshop Report, pp. 7-10.</p> <p>Workshop Report, p. 12.</p> <p>D.12-06-015, pp. 2, 24-27.</p> <p>D.12-06-015, p. 8.</p> <p>D.12-06-015, p. 14.</p> <p>D.12-06-015, pp. 25-27; COL 3, 11.</p>	
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<p>opportunities for WMDVBE and emerging firms, and requires the utilities to report specifically on their spend in this area in their GO 156 Annual Reports.</p>		
<p>B. Lack of competition and increased costs</p> <p>Greenlining’s arguments on diversity are closely tied to our arguments on competition and its ability to reduce costs – the more diverse the supplier pool, the lower the costs to utilities and ratepayers. This benefit comes in addition to the racial equity benefits inherent in providing more opportunities to diverse-owned companies.</p> <p>Greenlining argued that the Competitive Bidding Rule as was then written, and the often-used process for obtaining exemptions, drove up costs to ratepayers because it diminished competition to provide the best price for the service needed. Greenlining argued that the rule should be either revised, or eliminated and replaced, in order to decrease this outcome.</p> <p>Statements from the utilities confirmed Greenlining’s assertion that the current rule and procedures increase the cost of financing, as compared to what could be achieved through a negotiated bidding process.</p> <p>D.12-06-015 adopted a new Financing Rule that utilities could elect to use instead of a competitive bidding process, as long as the chosen method resulted in the lowest available cost of capital.</p> <p>The Decision noted that the Financing Rule will broaden the supplier pool of underwriters and investors, which will better reflect of the population served by both the utilities and the broader financial market.</p>	<p>Opening Comments on OIR, pp. 3-4; Reply Comments on OIR, pp. 3-4.</p> <p>Workshop Report, pp. 4-6.</p> <p>D.12-06-015, pp. 2, 13, 19-20; FOF 5; COL 1.</p> <p>D.12-06-015, p. 14.</p>	

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?	Yes	
b. Were there other parties to the proceeding with positions similar to yours?	Yes	
c. If so, provide name of other parties: CenturyTel of Eastern Oregon, Inc.; RBS Global Banking & Markets; Samuel A. Ramirez & Co., Inc.; The Williams Capital Group, L.P.; Castleoak Securities, L.P.; Lebenthal & Co., Inc.; Blaylock Robert Van, LLC; Loop Capital Markets, LLC; Southwest Gas Corporation; Park Water Company; Apple Valley Ranchos Water Company; Verizon California, Inc.; Valencia Water Company; San Gabriel Valley Water Company; Southern California Edison Company; Golden State Water Company; San Diego Gas & Electric Company; Southern California Gas Company; Ducor Telephone Company; Kerman Telephone Company; Foresthill Telephone Company, Inc.; Sierra Telephone Company, Inc.; The Ponderosa Telephone Company; DRA; Pacific Gas & Electric Company; Pacific Bell Telephone Company; AT&T California and certain of its regulated affiliates; Surewest Telephone Company; Calaveras Telephone Company/Small LECs; California Pacific Electric Company, Inc.; California Water Association and its Class A Water Companies; California Association of Competitive Telecommunications Companies (CALTEL); San Jose Water Company; California Water Service Company; Great Oaks Water Company; Pinnacles Telephone Company; Citizens Telecommunications Company of CA; Frontier Communications West Coast, Inc./Frontier Communications of the Southwest, Inc.; Volcano Telephone Company; California-American Water Company; Cal-Ore Telephone Company; The Siskiyou Telephone Company; Happy Valley Telephone Company/Hornitos Telephone Company; Winterhaven Telephone Company; Pacificcorp.		
d. Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party: Greenlining was somewhat uniquely situated among the parties to this proceeding. Greenlining advocated for better inclusion of diverse-owned financial services firms through the modification of the Competitive Bidding Rule, and through better coordination with GO 156. There were other parties advocating for this result; however, Greenlining was the only party that is intimately familiar with the workings of GO 156 and the utilities' supplier diversity practices (outside of the utilities themselves, of course). The other parties advocating for more inclusive financial services were providers of services themselves, and as such were less familiar with the policy aspects represented by Greenlining, but far more versed in the day-to-day workings of the services they offer. As such, together we provided complementary points of view on the same issue, and did not duplicate each other's work.		

C. Additional Comments on Part II (use line reference # or letter as appropriate):

#	Claimant	CPUC	Comment
II(A)	X		Greenlining did not file comments on the proposed decision in this proceeding because we agreed with its analysis and conclusions, and found no factual, legal or technical errors to comment on, as required by Rule 14.3(c).

PART III: REASONABLENESS OF REQUESTED COMPENSATION (to be completed by Claimant except where indicated)

A. General Claim of Reasonableness (§§ 1801 & 1806):

<p>a. Concise explanation as to how the cost of Claimant’s participation bears a reasonable relationship with benefits realized through participation (include references to record, where appropriate)</p> <p>It is unclear what ratepayers stand to benefit from the policy and rule changes made in this proceeding that relate to Greenlining’s advocacy. Actual savings will depend on how much work is done with diverse firms in the coming years, that would have been done with other firms, and the difference in cost between the two options. However, the Commission supports the longstanding principle that increased competition in the supplier pool reduces costs. As such, it is all but guaranteed that the utilities and their ratepayers will see savings resulting from the more diverse financial services supplier pool. These savings will almost certainly be greater than the very small amount of cost Greenlining claims here.</p>	<p>CPUC Verified</p>
<p>b. Reasonableness of Hours Claimed.</p> <p>Greenlining’s hours are reasonable, in part because of its niche role in this proceeding, as described above in Part II(B)(d), and also because we limited our participation to a narrow subset of issues within our area of expertise. Greenlining assigned a lead counsel, Mr. Young, who handled the bulk of the proceeding with minimal oversight and guidance by senior counsel, Ms. Chen. Further, Greenlining’s recorded hours were substantially less than the already-minimal estimate provided in its NOI, with both Ms. Chen and Mr. Young reporting only one third of the time anticipated in the NOI. Greenlining is also the sole intervenor to file an NOI in this proceeding, rendering overall intervenor costs for the proceeding unusually low.</p> <p>It should be noted that in some instances, Mr. Young spent more time on certain activities, including drafting filings, than perhaps a more experienced attorney would have. Mr. Young was a Fellow during his participation in the proceeding, in his first year of practice. This was one of the first proceedings in which he served as lead counsel for Greenlining. While his relative inexperience may have resulted in more time spent on certain tasks, that inexperience is also reflected in the low rate at which his time is billed. As such, it is reasonable for a new attorney to spend a little more time on certain tasks than a more experienced one.</p>	

c. Allocation of Hours by Issue

Greenlining's time is allocated by issue category as follows:

A. Promoting use of diverse financial service companies (GO 156)	61.39%
B. Lack of competition and increased costs	20.85%
C. General/Multiple Issues	17.76%
Total	100%

B. Specific Claim:

CLAIMED						CPUCA WARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Stephanie Chen	2011	2.2	\$185	D.12-04-043	\$407.00			
Stephanie Chen	2012	3.8	\$185	D.12-04-043	\$703.00			
Ryan Young	2011	19.9	\$150	D.12-04-043	\$2,985.00			
Subtotal:					\$4,095.00	Subtotal:		
OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
[Person 1]			\$					
[Person 2]								
Subtotal:						Subtotal:		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Stephanie Chen	2011	.5	\$92.50	D.12-04-043	\$46.25			
Stephanie Chen	2012	3.1	\$92.50	D.12-04-043	\$286.75			
Subtotal:					\$333.00	Subtotal:		
COSTS								
#	Item	Detail			Amount	Amount		
Subtotal:						Subtotal:		
TOTAL REQUEST \$:					\$4,428.00	TOTAL AWARD \$:		

When entering items, type over bracketed text; add additional rows as necessary.

*If hourly rate based on CPUC decision, provide decision number; otherwise, attach rationale.

**Travel and Reasonable Claim preparation time typically compensated at 1/2 of preparer's normal hourly rate.

C. Attachments Documenting Specific Claim and Comments on Part III (Claimant completes; attachments not attached to final Decision):

Attachment or Comment #	Description/Comment
Attachment A	Recorded Hours for Greenlining Attorneys
Attachment 1	Certificate of Service

D. CPUC Disallowances, Adjustments, and Comments (CPUC completes):

#	Reason

PART IV: OPPOSITIONS AND COMMENTS

Within 30 days after service of this Claim, Commission Staff or any other party may file a response to the Claim (see § 1804(c))

(CPUC completes the remainder of this form)

A. Opposition: Did any party oppose the Claim?	
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If so:

Party	Reason for Opposition	CPUC Disposition

B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(2)(6))?	
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If not:

Party	Comment	CPUC Disposition

FINDINGS OF FACT

1. Claimant [has/has not] made a substantial contribution to Decision (D.) _____.
2. The requested hourly rates for Claimant’s representatives [,as adjusted herein,] are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses [,as adjusted herein,] are reasonable and commensurate with the work performed.
4. The total of reasonable contribution is \$_____.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, [satisfies/fails to satisfy] all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. Claimant is awarded \$_____.

2. Within 30 days of the effective date of this decision, _____ shall pay Claimant the total award. [for multiple utilities: “Within 30 days of the effective date of this decision, ^, ^, and ^ shall pay Claimant their respective shares of the award, based on their California-jurisdictional [industry type, for example, electric] revenues for the ^ calendar year, to reflect the year in which the proceeding was primarily litigated.”] 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 _____, 200__, the 75th day after the filing of Claimant’s request, and continuing until full payment is made.
3. The comment period for today’s decision [is/is not] waived.
4. This decision is effective today.

Dated _____, at San Francisco, California.

Attachment A

Recorded Hours for Greenlining Attorneys

Hours of Stephanie Chen, Senior Legal Counsel, in 2011

- A. Promoting the use of diverse financial service companies (GO 156) A
 B. Lack of competition and increased costs B
 C. General/Multiple Issues C

Date	Description	Issue Codes	A	B	C	Total
3/8/2011	Reading OIR				0.5	0.5
4/28/2011	Planning opening comments on OIR with R.Young				0.1	0.1
5/9/2011	Editing R.Young Opening Comments		0.4	0.2	0.1	0.7
5/26/2011	Discussing opening comments of other parties and planning GLI reply comments and proceeding strategy with R.Young		0.2	0.1		0.3
5/27/2011	Editing R.Young Reply Comments		0.4	0.1	0.1	0.6
Issue Areas			A	B	C	Total
Total Hours for Stephanie Chen, Senior Legal Counsel, in 2011			1	0.4	0.8	2.2

Hours of Stephanie Chen, Senior Legal Counsel, in 2012

- A. Promoting the use of diverse financial service companies (GO 156) A
 B. Lack of competition and increased costs B
 C. General/Multiple Issues C

Date	Description	Issue Codes	A	B	C	Total
1/5/2012	Reading Pre-workshop statements		0.3	0.1		0.4
1/9/2012	Attending workshop		1	2		3
5/15/2012	Reviewing PD		0.2	0.2		0.4
Issue Areas			A	B	C	Total
Total Hours for Stephanie Chen, Senior Legal Counsel, in 2012			1.5	2.3	0	3.8

Hours of Stephanie Chen, Sr. Legal Counsel, in 2011 - Intervenor Compensation

Date	Description	Total
4/28/2011	Drafting NOI	0.5
Total Hours for Stephanie Chen on Intervenor Compensation in 2012		0.5

Hours of Stephanie Chen, Sr. Legal Counsel, in 2012 - Intervenor Compensation

Date	Description	Total
7/30/2012	Drafting request for intervenor compensation	0.4
7/31/2012	Drafting request for intervenor compensation	0.9
8/1/2012	Drafting request for intervenor compensation	1.8
Total Hours for Stephanie Chen on Intervenor Compensation in 2012		3.1

Hours of Ryan Young, Legal Fellow, in 2011

- A. Promoting the use of diverse financial service companies (GO 156) A
 B. Lack of competition and increased costs B
 C. General/Multiple Issues C

Date	Description	Issue Codes	A	B	C	Total
3/8/2011	Reviewed OIR				0.4	0.4
4/27/2011	Researched Background of OIR		0.2	0.1		0.3
4/28/2011	Drafted Comments- General Issues				1	1
4/28/2011	Drafted Comments re Adequacy of Competition issue			1		1
5/2/2011	Research re GO 156 in preparation for comments		1.2			1.2
5/4/2011	Read Press Releases SDG&E issues million in bonds jointly led by minority-owned investment bank and SoCalGas issues \$300 million in bonds jointly led by minority-owned investment banks		0.2			0.2
5/4/2011	Drafted Comments re GO 156 issue		1.4			1.4
5/5/2011	Read UTILITY SUPPLIER DIVERSITY PROGRAM STAFF REPORT WORKSHOP ON "UNDERUTILIZED AREAS" RULEMAKING 09-07-027		0.6			0.6
5/8/2011	Researched and Drafted Comments re GO 156 issue		3.5			3.5
5/9/2011	Drafted Comments re GO 156 issue		2			2
5/9/2011	Drafted Comments re Adequacy and Effectiveness Issue			0.5		0.5
5/24/2011	Reviewed Castle Rock opening comments				0.1	0.1
5/24/2011	Reviewed PG&E Opening Comments		0.2	0.2	0.1	0.5
5/24/2011	Review Pacificorp Comments				0.1	0.1
5/24/2011	Review Comments of RBS Global				0.1	0.1
5/24/2011	Reviewed Comments of MCI/Verizon				0.1	0.1
5/24/2011	Review Comments of CALIFORNIA WATER ASSOCIATION				0.1	0.1
5/24/2011	Reviewed Comments of CALIFORNIA ASSOCIATION OF COMPETITIVE TELECOMMUNICATIONS COMPANIES				0.1	0.1
5/24/2011	Reviewed Comments of Calaveras Phone Company				0.1	0.1
5/24/2011	Reviewed Comments of ATT				0.1	0.1
5/24/2011	Reviewed SW Gas Comments				0.1	0.1
5/24/2011	Reviewed Comment of Williams Capital				0.1	0.1
5/24/2011	Reviewed Comments of Loop Capital				0.1	0.1
5/24/2011	Reviewed Comments of Ramirez and Co.				0.1	0.1
5/26/2011	Briefed S. Chen on Opening Comments of Parties		0.2	0.1		0.3
5/26/2011	Drafted Reply Comments re Adequacy of Competition Issue			0.8		0.8
5/26/2011	Drafted Reply Comments re GO156 Issue		3.9			3.9
5/26/2011	Drafted Intro and Conclusion for Reply Comments				0.5	0.5
5/26/2011	Edited footnotes for Reply Comments				0.3	0.3
6/1/2011	Read Reply Comments of Southwest Gas				0.1	0.1
6/1/2011	Read Reply Comments of Joint Utilities				0.1	0.1
6/1/2011	Read Reply Comments of Small LECs				0.1	0.1
Issue Areas			A	B	C	Total
Total Hours for Ryan Young, Legal Fellow, in 2011			13.4	2.7	3.8	19.9