



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FILED
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Order Instituting Rulemaking on the Commission's own Motion to Require Interconnected Voice Over Internet Protocol Service Providers to Contribute to the Support of California's Public Purpose Programs

Rulemaking 11-01-008
(Filed January 13, 2011)

**NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION
AND, IF REQUESTED (and checked), ALJ RULING
ON SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP**

Customer (party intending to claim intervenor compensation): The Utility Reform Network (TURN)			
Assigned Commissioner: Michael Peevey		Assigned ALJ: Christine Walwyn	
I hereby certify that the information I have set forth in Parts I, II, III and IV of this Notice of Intent (NOI) is true to my best knowledge, information and belief. I further certify that, in conformance with the Rules of Practice and Procedure, this NOI and has been served this day upon all required persons (as set forth in the Certificate of Service attached as Attachment 1).			
Signature: /S/			
Date:	04-06-11	Printed Name:	Christine Mailloux

PART I: PROCEDURAL ISSUES

(To be completed by the party ("customer") intending to claim intervenor compensation)

A. Status as "customer" (see Pub. Util. Code § 1802(b)): Are you claiming "customer" status because you (check one):	Applies (check)
1. Category 1: Represent consumers, customers, or subscribers of any electrical, gas, telephone, telegraph, or water corporation that is subject to the jurisdiction of the Commission (§ 1802(b)(1)(A))?	
2. Category 2: Are a representative who has been authorized by a "customer" (§ 1802(b)(1)(B))?	
3. Category 3: Represent a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers, to represent "small commercial customers" (§ 1802(h)) who receive bundled electric service from an electrical corporation (§ 1802(b)(1)(C)), or to represent another eligible group?	X

4. Please explain your customer status, economic interest (if any), and provide any documentation (such as articles of incorporation or bylaws) that supports your status. Identify any attached documents in Part IV.

TURN is a “group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential ratepayers.” TURN provided the relevant portion of our articles of incorporation in the NOI submitted in A.98-02-017, and again in A.99-12-024. The articles of incorporation have not changed since the time of those earlier submissions. D.98-04-059 directs groups such as TURN to indicate the percentage of their members that are residential ratepayers. Id., FOF 12. TURN has approximately 20,000 dues paying members, of whom we believe the vast majority are residential ratepayers. TURN does not poll our members in a manner that would allow a precise breakdown between residential and small business members, so a precise percentage is not available.

B. Timely Filing of NOI (§ 1804(a)(1)):	Check
1. Is your NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference:	Yes ___ No <u>X</u> ___
2. Is your NOI filed at another time (for example, because no Prehearing Conference was held, the proceeding will take less than 30 days, the schedule did not reasonably allow parties to identify issues within the timeframe normally permitted, or new issues have emerged)?	Yes <u>X</u> ___ No ___
<p>2a. Describe the reason for filing your NOI at this other time:</p> <p>This is a quasi-legislative docket and the Commission has made a tentative ruling that no hearings will be necessary. In the event there are no hearings, Rule 17.1 (a)(2) requires intervenors to file their Notice of Intent to Claim Compensation (“NOI”) within 30 days of the first responsive pleadings filed in the docket, or at another time as specified by the ALJ. Parties filed their comments on the Order Instituting Rulemaking on March 7, 2011. Therefore, absent further direction from the ALJ, pursuant to Rule 17.1, NOIs are due April 6, 2011.</p>	
<p>2b. Provide the proceeding number, date, and decision number for any Commission decision, Commissioner ruling, or ALJ ruling, or other document authorizing the filing of your NOI at this other time:</p> <p>See discussion above. The Order Instituting Rulemaking, R.11-01-008, filed January 13, 2011 at page 32 made the initial determination that no hearings will be necessary thus triggering Rule 17.1(a)(2). The OIR, however, referenced the possibility that a further ruling on intervenor compensation may be issued. The ALJ has not issued a subsequent ruling. Out of an abundance of caution, TURN files this NOI pursuant to Rule 17.1(a)(2) .</p>	

PART II: SCOPE OF ANTICIPATED PARTICIPATION
(To be completed by the party (“customer”) intending to claim intervenor compensation)

A. Planned Participation (§ 1804(a)(2)(A)(i)):

1. What is the nature and extent of your planned participation in this proceeding (as far as it is possible to describe on the date this NOI is filed)? On what issues do you plan to participate?

Nature and Extent of Planned Participation

TURN plans to be an active participant throughout the proceeding. We will prepare pleadings and other responsive filings, attend workshops and all-party meetings and make ex-parte filings as needed. TURN has already filed comments on the OIR and comments on a Motion by the Consumer Protection and Safety Division (“CPSD”).

Economic Interest of Participation

In this proceeding TURN will represent the interests of its residential constituents in California. One of the main issues in this docket, whether VoIP customers will pay into the state’s public purpose program funds, will affect all classes of residential customer. The outcome will affect low income customers that are the beneficiaries of public purpose programs in California as it will impact the stability of the funding base for those programs. It will also affect all residential customers who currently pay into these programs as it will spread the surcharge burden among more customers. Finally, the outcome will affect current and future customers of VoIP providers by imposing a surcharge on their voice services. TURN will work with the Commission and other parties to the proceeding to ensure that the economic interests of each residential customer group are taken into consideration and that the outcome is fair to each group. In addition, other issues regarding the jurisdiction of the Commission to impose additional regulations and requirements on VoIP carriers will also affect residential VoIP customers and TURN will work to ensure that the needs of those customers are given full consideration.

Issues Likely to Be Addressed

The OIR included several issues to be addressed in this Rulemaking. Below, TURN lists the issues that it expects to be involved in and the approximate percentage of time it expects to spend on each issue:

Payment into the LifeLine Fund	40%
Payment into the other Public Purpose Programs	15%
Methodology for payment	5%

into the Funds/Use of FCC database	
Registration requirement for VoIP	10%
Requirement to breakout PPP surcharge on customer bills	5%
Status of VoIP carriers as “telephone corporations” under the statute	15%
Other/General preparation	10%

In addition to the issues listed in the OIR, TURN and CPSD have requested that the Scope of the Rulemaking be expanded to include other issues. Other parties have supported such requests. (*See*, March 8, 2011 Motion of CPSD to Modify the Scope to Include Consumer Protection; TURN’s March 7, 2011 Opening Comments on the OIR)

If these additional issues are included within the scope of the rulemaking, TURN expects to be an active participant on those issues as well. The total number of hours estimated below and the percentage of our time spent on each issue would be adjusted accordingly.

Avoiding Undue Duplication

The Commission has stated that it will make a preliminary determination based on the NOI whether an intervenor represents interests that, if not for the availability of compensation, would be “underrepresented” in the proceeding. D.98-04-059, mimeo, at 27. TURN, the Division of Ratepayer Advocates (DRA), Greenlining Institute and the Disability Rights Advocates are all active participants in the docket. As in previous dockets before the Commission, TURN expects to work closely and coordinate with these groups where there is an overlap in issues. This coordination will serve to minimize any overlap in issues and to ensure that where such overlap occurs each party is representing a unique perspective and will enable each party to most efficiently manage their advocacy efforts. For example, TURN has already coordinated with Disability Rights Advocates to share the work relating to filing Reply Comments on the OIR and a response to the Motion of CPSD. Finally, the Commission should recognize that the combined efforts of the consumer representatives would not only allow the parties to be more efficient in their work on the proceeding but can serve to counterbalance the numerous carrier-representatives’ resources in this proceeding.

B. Please provide an itemized estimate of the compensation that you expect to request, based on the anticipated duration of the proceeding (§ 1804(a)(2)(A)(ii)):

Item	Hours	Rate \$	Total \$	#
ATTORNEY FEES				

Christine Mailloux	75	\$390	\$ 29,250	1
Bill Nusbaum	45	\$435	\$ 19,575	
	Subtotal:		\$ 48,825	
EXPERT FEES				
Regina Costa	25	\$290	\$ 7,250	2
	Subtotal:		\$ 7,250	
OTHER FEES				
N/A				
	Subtotal:		\$0	
COSTS				
Estimated Miscellaneous Expenses (i.e., Electronic Research, Travel, Telecommunications, Photocopying)			\$ 500	
	Subtotal:		\$500	
TOTAL ESTIMATE \$:			\$ 56,575	
<p>Comments/Elaboration (use reference # from above):</p> <p>The reasonableness of the hourly rates requested for TURN's representatives will be addressed in our Request for Compensation (#s 1 and 2).</p> <p>TURN has not included in this estimate claim preparation time (#1).</p> <p>The amount of any future request for compensation will depend upon the Commission's ultimate decision in this case, as well as the resources TURN has available to devote to the case going forward.</p>				
<p>When entering items, type over bracketed text; add additional rows to table as necessary. Estimate may (but does not need to) include estimated claim preparation time. Claim preparation is typically compensated at ½ of preparer's normal hourly rate.</p>				

PART III: SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP

(To be completed by party ("customer") intending to claim intervenor compensation; see Instructions for options for providing this information)

A. On what basis are you claiming "significant financial hardship" for your claim for intervenor compensation in this proceeding (§ 1802(g))?	Applies (check)
1. "[T]he customer cannot afford, without undue hardship, to pay the costs of effective participation, including advocate's fees, expert witness fees, and	<input type="checkbox"/>

other reasonable costs of participation”; or	
2. “[I]n the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.”	X

B. Please explain, and attach necessary documentation as warranted, the factual basis for your claim of “significant financial hardship” (§ 1802(g)):

TURN is making its showing of significant financial hardship at this time pursuant to Section 1804(b)(1), which states in part that:

A finding of significant financial hardship shall create a rebuttable presumption of eligibility for compensation in other commission proceedings commencing within one year of the date of that finding.

TURN received a finding of significant financial hardship in an ALJ’s Ruling issued on November 22, 2010 in P. 10-08-016. That finding occurred within one year of the date that this proceeding commenced.

TURN does not anticipate any challenge to its eligibility for compensation in this proceeding. If any party does attempt to rebut the presumption of eligibility, however, TURN requests that it be granted the opportunity to reply to such party’s allegations within 10 days after the service of such filing

PART IV: ATTACHMENTS DOCUMENTING SPECIFIC ASSERTIONS MADE IN THIS NOTICE
(Claimant identifies and attaches documents; add rows as necessary)

Attachment No.	Description
1	Certificate of Service

ADMINISTRATIVE LAW JUDGE RULING¹
(ALJ completes)

	Check all that apply
1. The Notice of Intent (NOI) is rejected for the following reasons:	
a. The NOI has not demonstrated status as a “customer” for the following	

¹ An ALJ Ruling will not be issued unless: (a) the NOI is deficient; (b) the ALJ desires to address specific issues raised by the NOI (to point out similar positions, areas of potential duplication in showings, unrealistic expectations for compensation, or other matters that may affect the customer’s claim for compensation); or (c) the NOI has included a claim of “significant financial hardship.”

reason(s):	
b. The NOI has not demonstrated that the NOI was timely filed (Part I(B)) for the following reason(s):	
c. The NOI has not adequately described the scope of anticipated participation (Part II, above) for the following reason(s):	
2. The NOI has demonstrated significant financial hardship for the reasons set forth in Part III of the NOI (above).	
3. The NOI has not demonstrated significant financial hardship for the following reason(s):	
4. The ALJ provides the following additional guidance (see § 1804(b)(2)):	

ORDER

	Check all that apply
1. The Notice of Intent is rejected.	
2. Additional guidance is provided to the customer as set forth above.	
3. The customer has satisfied the eligibility requirements of Pub. Util. Code § 1804(a).	
4. The customer has shown significant financial hardship. The customer is entitled to a rebuttable presumption of eligibility for intervenor compensation in other Commission proceedings commencing within one year of the date of this ruling (§ 1804(b)(1)).	
5. The customer is preliminarily determined to be eligible for intervenor compensation in this proceeding. However, a finding of significant financial hardship in no way ensures compensation.	

Dated _____, at San Francisco, California.

ADMINISTRATIVE LAW JUDGE

**Attachment 1:
Certificate of Service by Customer**

I hereby certify that I have this day served a copy of the foregoing **NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION** by (check as appropriate):

- hand delivery;
- first-class mail; and/or
- electronic mail

to the following persons appearing on the official Service List:

Adam.Sherr@qwet.com
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Executed this 6th day of April, 2011, at San Francisco, California.

/S/

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