

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of Citizens
Telecommunications Company of California Inc.
d/b/a Frontier Communications of California
(U1024C), SureWest Telephone (U1015C), and
Verizon California Inc. (U1002C) to Exempt
Uniform Regulatory Framework ILECs From
General Order 77-M.

Application 11-02-003
(Filed February 2, 2011)

**DECISION GRANTING COMPENSATION TO THE GREENLINING INSTITUTE
FOR SUBSTANTIAL CONTRIBUTION TO DECISION 12-11-017**

Claimant: The Greenlining Institute (Greenlining)	For contribution to Decision (D.) 12-11-017
Claimed (\$): \$25,980.50	Awarded (\$): \$19,283.75 (Reduced 26%)
Assigned Commissioner: Catherine J.K. Sandoval	Assigned ALJ: Kelly A. Hymes

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision: D.12-11-017 denies the application of Citizens Telecommunications Company of California Inc. d/b/a Frontier Communications of California, SureWest Telephone, and Verizon California Inc. requesting exemption of Uniform Regulatory Framework (URF) incumbent local exchange carriers (ILEC) from General Order 77-M.

B. Claimant must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	April 19, 2011	Correct
2. Other Specified Date for NOI:	June 2, 2011 (see below)	Correct
3. Date NOI Filed:	June 2, 2011	Correct

4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on Administrative Law Judge (ALJ) ruling issued in proceeding number:	Rulemaking (R.) 10-02-005	Correct
6. Date of ALJ ruling:	March 29, 2010	Correct
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.09-08-009	Correct
10. Date of ALJ ruling:	January 10, 2011	Correct, A rebuttable presumption pursuant to § 1804(b)(1) is applied to Greenlining’s participation here, as a substantive finding on significant financial hardship (referenced above) was issued within a year of the commencement of this proceeding.
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.12-11-017	Correct
14. Date of Issuance of Final Order or Decision:	November 14, 2012	Correct
15. File date of compensation request:	January 11, 2012	Correct
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
4	X		Greenlining filed a motion to late-file its NOI on June 1, 2011, noting that it had inadvertently filed its original NOI late and had it rejected. The motion was granted by ALJ Hymes via an e-mail message on June 2, 2011 and in the Administrative Law Judge’s Ruling on Showing of Significant Financial Hardship (dated June 10, 2011).

PART II: SUBSTANTIAL CONTRIBUTION**A. Claimant's contribution to the final decision:**

Contribution	Specific References to Claimant's Presentations and to Decision	Showing Accepted by CPUC
<p>A. Commission Rate Regulation</p> <p>Greenlining, along with The Utility Reform Network (TURN), contended that Commission retains some regulation of rates and that GO 77-M is a proper exercise of this authority.</p> <p>D.12-11-017 retains GO 77-M as it has a Nexus to the Commission's duty to ensure just and reasonable rates.</p>	<p>Protest of Greenlining and TURN (Protest), at 1-4 (filed 3/10/11);</p> <p>Opening Brief of TURN and Greenlining (Opening Comments), at 1-4 (filed 5/23/12);</p> <p>Reply Brief of TURN and Greenlining (Reply Brief), at 1-5 (filed 6/6/12);</p> <p>Reply Comments of Greenlining on the Proposed Decision of Comm. Sandoval (Reply on PD), at 1-3 (filed 9/25/12).</p> <p>D.12-11-017, at 8-9, 10-11 & Findings of Fact ## 2-7.</p>	Yes
<p>B. Lifeline Regulation</p> <p>Greenlining contended that as URF ILECs receive subsidies in the form of LifeLine, they are subject to more regulation.</p> <p>D.12-11-017 finds that carriers of last resort, who benefit from LifeLine and High Cost Fund subsidies, are subject to more regulation.</p>	<p>Protest, at 3-4;</p> <p>Opening Brief, at 4-6;</p> <p>Reply Brief, at 4-5;</p> <p>Reply on PD, at 4-5.</p> <p>D.12-11-017, at 11-12 & Finding of Fact # 9.</p>	Yes
<p>C. Cross Subsidization</p> <p>Greenlining, as part of Joint Protestants, contended that GO 77-M is needed to prevent cross-subsidization, such as that prohibited by the Digital Infrastructure</p>	<p>Protest, at. 4-6;</p> <p>Opening Brief, at 6-7;</p> <p>Reply Brief, at 6-8.</p>	Yes

<p>and Video Competition Act</p> <p>D.12-11-017 finds that GO 77-M is necessary to monitor for cross-subsidization between basic residential and video services.</p>	<p>D.12-11-017, at 12-14 & Finding of Fact # 10.</p>	
<p>D. Transparency</p> <p>Greenlining contended that GO 77-M is necessary to promote transparency.</p> <p>D.12-11-017 does not find convincing facts that GO 77-M is necessary to promote transparency.</p>	<p>Protest, at 6-7; Opening Brief, at 7-10; Reply Brief, at 9-10.</p> <p>D.12-11-017, at 14-15.</p>	<p>Yes</p>
<p>E. Competitive Neutrality</p> <p>Greenlining contended that URF ILECs, as carriers of last resort, are subject to different rate regulation.</p> <p>D.12-11-017 notes instances of asymmetric regulation on carriers of last resort.</p>	<p>Protest, at 2-4; Opening Brief, at 10-11; Reply Brief, at 10-13; Reply Comments on PD, at 3-5.</p> <p>D.12-11-017, at 15-17, Findings of Fact ## 11, 12.</p>	<p>Yes</p>
<p>F. Suggested Improvements to GO 77</p> <p>Greenlining, as part of Joint Protestants, suggests improvements to GO 77-M to improve the quality and usefulness of reported data.</p> <p>D.12-11-017 orders a rulemaking to make improvements to GO 77-M.</p>	<p>Opening Brief, at 12-13; Reply Brief, at 14.</p> <p>D.12-11-017, at 19 & Findings of Fact ## 16-19.</p>	<p>Yes</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	Correct
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Correct
c. If so, provide name of other parties: Verizon California Inc., TURN, Surewest Telephone, Citizens Communications Company of California Inc. dba Frontier Communications of California, AT&T California		Correct
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 coordinated with DRA, and extensively with TURN, to avoid duplication and coordinate wherever possible. Greenlining filed most of its filings jointly with TURN, rather than create two very similar filings by each party independently. In drafting the filings, issues and sections were split between the organizations according to maximize efficiency of participation by each party. For example, TURN drafted material regarding cross-subsidization and improvements to GO 77. Greenlining drafted material regarding Lifeline regulation. Both organizations discussed rate regulation, transparency and competitive neutrality issues.		Correct

C. Additional Comments on Part II:

#	Claimant	CPUC	Comment
II(a)	X		Even where Greenlining’s position did not prevail in the final decision, Greenlining’s participation still made a substantial contribution to the record and to the Commission’s deliberation over the issues.

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

a. Concise explanation as to how the cost of Claimant’s participation bears a reasonable relationship with benefits realized through participation:	CPUC Verified																
<p>It is difficult to quantify how much telephone customers stand to benefit by the maintenance of GO 77-M reporting by URF ILEC carriers. These are large carriers, with large customer bases. The purpose behind GO 77-M with respect to these carriers is to help the Commission maintain just and reasonable rates by monitoring how much these carriers are spending in reportable categories. This spending, if left unmonitored, could easily become excessive and result in higher rates for customers. Given the large size of the customer bases served by these carriers, just one dollar of avoided cost increase resulting from this proceeding for every customer every year would add up to a collective savings of millions of dollars a year. That savings would vastly exceed the very modest amount of compensation Greenlining claims herein.</p>	<p>We agree that the benefits to the ratepayers provided by Greenlining are difficult to quantify. However, as determined by D.12-11-017, the continued use of GO 77-M as another tool for the Commission should assist the Commission in protecting ratepayers from excessive rates. We find that Greenlining’s hours and costs, as adjusted herein, are reasonable and warrant compensation.</p>																
<p>b. Reasonableness of Hours Claimed.</p> <p>Greenlining’s hours are reasonable, in large part because of our extensive collaboration with TURN to maximize efficiency, eliminate duplication of effort, and ensure that effective participation by both parties used only minimal resources.</p>	<p>We find that the information provided by Greenlining does not sufficiently show how it and TURN eliminated duplication of effort and we adjust accordingly, as noted below. We also find excesses in time spent reviewing documents and drafting/editing documents.</p>																
<p>c. Allocation of Hours by Issue</p> <p>Greenlining’s time is allocated by issue category as follows:</p> <table border="1" data-bbox="167 1518 1131 1795"> <tbody> <tr> <td>A. Commission Rate Regulation</td> <td>30.55%</td> </tr> <tr> <td>B. Lifeline Regulation</td> <td>14.84%</td> </tr> <tr> <td>C. Cross Subsidization</td> <td>11.82%</td> </tr> <tr> <td>D. Transparency</td> <td>10.52%</td> </tr> <tr> <td>E. Competitive Neutrality</td> <td>14.12%</td> </tr> <tr> <td>F. Improvements to GO 77-M</td> <td>1.73%</td> </tr> <tr> <td>G. General/Procedural Issues</td> <td>16.43%</td> </tr> <tr> <td>Total</td> <td>100%</td> </tr> </tbody> </table>	A. Commission Rate Regulation	30.55%	B. Lifeline Regulation	14.84%	C. Cross Subsidization	11.82%	D. Transparency	10.52%	E. Competitive Neutrality	14.12%	F. Improvements to GO 77-M	1.73%	G. General/Procedural Issues	16.43%	Total	100%	<p>We find the allocation of work by issue to be reasonable.</p>
A. Commission Rate Regulation	30.55%																
B. Lifeline Regulation	14.84%																
C. Cross Subsidization	11.82%																
D. Transparency	10.52%																
E. Competitive Neutrality	14.12%																
F. Improvements to GO 77-M	1.73%																
G. General/Procedural Issues	16.43%																
Total	100%																

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Enrique Gallardo	2011	24.7	\$370	D.12-04-043	9,139.00	18.7	\$370	\$6,919.00
Enrique Gallardo	2012	41.3	\$370	D.12-04-043	15,281.00	29.7	\$380	\$11,286.00
Stephanie Chen	2011	2.4	\$185	D.12-04-043	444.00	2.4	\$185	\$444.00
Stephanie Chen	2012	1	\$210	See Attachment B	210.00	1	\$200	\$200.00
Subtotal:					\$25,074.00	Subtotal:		\$18,849.00
INTERVENOR COMPENSATION CLAIM PREPARATION**								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Stephanie Chen	2011	0.7	\$185	D.12-04-043	129.50	0.7	\$92.50	\$64.75
Stephanie Chen	2012	3.7	\$210	See Attachment B	777.00	3.7	\$100	\$370.00
Subtotal:					\$906.50	Subtotal:		\$434.75
COSTS								
#	Item	Detail			Amount	Amount		
Subtotal:						Subtotal:		
TOTAL REQUEST:					\$25,980.50	TOTAL AWARD:		\$19,283.75
<p>*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. Claimant’s records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer’s normal hourly rate</p>								
Attorney				Date Admitted to CA BAR	Member Number			
Enrique Gallardo				December 9, 1997	191670			
Stephanie Chen				August 23, 2010	270917			

C. Comments and Attachments on Part III:

Attachment or Comment #	Description/Comment
Attachment A	Recorded Hours for Greenlining Attorneys
Attachment B	Justification for Rate Claimed for Stephanie Chen

D. CPUC Disallowances & Adjustments:

#	Reason
1. Disallowance for duplication.	<p>To address the concern regarding duplication, we subtracted the hours worked on cross subsidization because Greenlining stated that TURN had addressed this issue. We then subtracted 15 percent of the remaining hours worked to account for a) duplication that the Commission could not specifically delete, i.e., transparency and competitive neutrality issues and b) excessive hours for review of documents and drafting/editing the joint responses and c) excessive hours in comparison with other interveners in this proceeding.</p> <p>For 2010: $(24.7 - 2.7) - 3.3 = 18.7$ hours</p> <p>For 2011: $(41.2 - 6.3) - 5.2 = 29.7$ hours</p>
2. Adoption of Ms. Chen's 2012 rate.	<p>Greenlining requested a rate of \$210 for Ms. Chen for work done in 2012. Greenlining justified this request by stating that Ms. Chen was awarded the rate of \$185 in 2011 and the Commission set new rates in ALJ-281, issued in 2012. In D.12-04-045, the Commission awarded Ms. Chen the rate of \$185 for work performed after August 2010, noting that it was a reasonable rate for an attorney with 1 to 2 years of experience. ALJ-281 set new rate ranges for attorneys, noting, in Finding of Fact 1, it is reasonable to provide a 2.2 percent cost of living adjustment (COLA) for work performed in 2012 and, in Finding of Fact 2, it is reasonable to allow individuals an annual step increase of 5 percent. Furthermore, D.08-04-010 allows a COLA and a step increase to be applied simultaneously. Thus, we award Ms. Chen a new rate of \$200 for work done in 2012 (2011 rate of \$185 plus a 7.2 percent increase rounded to the nearest \$5.)</p>
3. Claim preparation hourly rate(s).	<p>The Commission's Intervenor Compensation program has a policy of compensating work performed on the claim at one-half of the approved rate. In the case of Ms. Chen, work performed on the claim in 2011 will be compensated at \$92.50 per hour, one-half of her approved rate of \$185.</p>
4. Claim preparation hourly rate(s).	<p>As we did for 2011 work, work performed on the claim in 2012 will be compensated at \$100 per hour, one-half of the approved rate of \$200.</p>
5. Increase in 2012 hourly rates.	<p>Abiding by Resolution ALJ-281, 2012 hourly rates have been raised to reflect the 2.2% Cost-of-Living Adjustment adopted by the resolution.</p>

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(2)(6))?	Yes

FINDINGS OF FACT

1. The Greenlining Institute has made a substantial contribution to Decision 12-11-017.
2. The requested hourly rates for The Greenlining Institute’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 \$19,283.75

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. The Greenlining Institute is awarded \$19,283.75
2. Within 30 days of the effective date of this decision, Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California, SureWest Telephone, and Verizon California shall pay The Greenlining Institute their respective shares of the award, based on their California-jurisdictional telecommunications revenues for the 2012 calendar year, to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning March 27, 2013, the 75th day after the filing of The Greenlining Institute’s request, and continuing until full payment is made.
3. The comment period for today’s decision is waived.
4. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX

Compensation Decision Summary Information

Compensation Decision:		Modifies Decision? No
Contribution to Decision:	D1211017	
Proceeding:	A1102003	
Author:	ALJ Kelly A. Hymes	
Payee:	Citizens Telecommunications Company of California, Inc., SureWest Telephone, and Verizon California Inc.	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Greenlining Institute (Greenlining)	1/11/2013	\$25,980.50	\$19,283.75	No	Adjusted for duplication, excessive hours, and newly adopted rates.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Enrique	Gallardo	Attorney	Greenlining	\$370	2011	\$370
Enrique	Gallardo	Attorney	Greenlining	\$370	2012	\$380
Stephanie	Chen	Attorney	Greenlining	\$185	2011	\$185
Stephanie	Chen	Attorney	Greenlining	\$210	2012	\$200

(END OF APPENDIX)