Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion Into the Planned Purchase and Acquisition by AT&T Inc. of T-Mobile USA, Inc., and its Effect on California Ratepayers and the California Economy.	Investigation 11-06-009 (Filed June 9, 2011)

DECISION GRANTING COMPENSATION TO THE UTILITY CONSUMERS' ACTION NETWORK FOR SUBSTAINTIAL CONTRIBUTION TO DECISION 12-08-025

Claimant: Utility Consumers' Action Network (UCAN)	**For contribution to Decision (D.) 12-08-025**
Claimed ($): $13,814.00	**Awarded ($): 11,339.75 (Reduced 18%)**
Assigned Commissioner: Catherine J.K. Sandoval	**Assigned Administrative Law Judge (ALJ): Jessica Hecht**

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	Decision dismissing proceeding as moot.

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:		No prehearing conference was held.
2. Other Specified Date for NOI:	September 6, 2011 (Order Instituting Investigation, Para. 18).	Verified
3. Date NOI Filed:	September 6, 2011	Verified
4. Was the NOI timely filed?		Yes

Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:		
6. Date of ALJ ruling:		
7. Based on another CPUC determination (specify):		D.10-05-013
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:	*See* Comment 1	*See* Section I.C below
10. Date of ALJ ruling:		
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.12-08-025	Verified
14. Date of Issuance of Final Order or Decision:	August 23, 2012	D.12-08-025 was effective August 23, 2012 but issued August 29, 2012
15. File date of compensation request:	September 21, 2012	Verified
16. Was the request for compensation timely?		Yes.

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
1	Lines 9-11		UCAN has a "significant financial hardship" pursuant to Pub. Util. Code § 1802(g). UCAN has a membership list of over 30,000. UCAN has been able to establish anecdotally through customer complaints that this membership includes a large number of AT&T Inc. (AT&T) and T-Mobile USA, Inc. (T-Mobile) customers. Although the aggregate economic interest of these members in the proposed merger was large, the individual interest of each customer represents only a small fraction of the cost of participating in the instant proceeding. As it would be inefficient for these individual customers to participate, UCAN, an organization with decades of experience representing the interests of San Diego area utility and telecom ratepayers, is appropriate to represent the interest of these customers in this proceeding.

2		Lines 9-11	Pursuant to Pub. Util. Code §1804(a)(2)(B), UCAN includes its showing of significant financial hardship here in its compensation request. UCAN asserts that the economic interest of the individual members of the organization is small in comparison to the costs of effective participation in the proceeding. In this investigation, UCAN's claimed costs were $13,814, substantially outweighing the benefits to the individual members it represents. UCAN's participation in this proceeding concerned the potential harm to the public interest this merger would represent to consumers, which while beneficial only has a minimal financial impact on its individual members. Accordingly, these economic interests are small relative to the costs of participation. It is unlikely that UCAN's members will see financial benefits that exceed the costs of UCAN's intervention. We find that UCAN is a customer as defined in Section 1802(b) and has made the requisite showing of significant financial hardship pursuant to Section 1802(g), and is determined to be eligible to claim intervenor compensation in this proceeding.

PART II: SUBSTANTIAL CONTRIBUTION

A. Description of Claimant's contribution to the final decision (*see* § 1802(i), § 1803(a) & D.98-04-059).

Intervenor's Claimed Contribution(s)	Intervenor's Claimed Contribution(s)	CPUC Discussion
UCAN submitted Combined Reply Comments and Briefing covering the relevance of the possibility of Sprint acquiring T-Mobile, AT&T's competition with T-Mobile, Leap, and Metro PCS, service quality issues, price retention and comparable devices and service, and merger conditions.	The parties' substantive contributions to the proceeding were not discussed in the Decision, as the proceeding was dismissed as moot. However, the Decision expressly recognizes the value of the parties' participation in holding that the parties are eligible to apply for intervenor compensation.	Accepted

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

	Claimant	CPUC Verified
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?[1]	Yes	Yes
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Yes
c. If so, provide name of other parties: The Utility Reform Network (TURN)		Correct. The Greenlining Institute also addressed some issues that UCAN addressed. (*See* UCAN's July 6, 2011 Opening Brief at 8, quoting a letter from the Greenlining Institute.)
d. Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party: UCAN made all reasonable efforts to coordinate with other parties, including ORA and TURN, to avoid duplicative work and ensure the value of UCAN's contribution to the proceeding.		Accepted. We make no deductions for duplication with other parties.

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**
Although the proceeding was dismissed as moot, UCAN made meaningful contributions to the proceeding that, had the AT&T / T-Mobile merger not been cancelled, would have benefitted telecom consumers.	Accepted

[1] The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

b. Reasonableness of Hours Claimed. In addition to submitting briefing and comments, UCAN engaged in discovery, attended workshops, attended local hearings, and participated in other aspects of the proceeding. The limited hours claimed by UCAN are reasonable in light of the significant reasonably projected value of UCAN's contributions.	After some reductions as set forth in Section III.C below, the remainder of UCAN's request is reasonable and worthy of compensation.
c. Allocation of Hours by Issue Hours were allocated separately for General Preparation and Briefing.	This general allocation was not particularly helpful in analyzing the claim. A specific allocation as to the work performed by issues, rather than in the "general" and "briefing" category, would have been more useful in analyzing substantial contribution.

B. Specific Claim: *

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	**Year**	**Hours**	**Rate**	**Basis for Rate***	**Total $**	**Hours**	**Rate**	**Total $**
Michael Scott	2011	53.8	$155	D.11-05-015	$8,339.00	41.58	$155	$6,444.90
Art Neill	2011	25	$205	D.10-08-018	$5,125.00	22.17	$205	$4,544.85
				Subtotal:	**$13,464.00**		***Subtotal:***	**$10,989.75**

INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	**Year**	**Hours**	**Rate**	**Basis for Rate***	**Total $**	**Hours**	**Rate**	**Total $**
David Peffer	2012	3.5	$200 (50%)	Rate requested in A.11-03-001	$350.00	3.5	$100	$350.00
				Subtotal:	**$350.00**		***Subtotal:***	**$350.00**
				TOTAL REQUEST $:	**$13,814.00**		**TOTAL AWARD $:**	**11,339.75**

* 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 requested 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.

** Reasonable claim preparation time typically compensated at ½ of preparer's normal hourly rate (the same rate applies to travel time).

ATTORNEY INFORMATION			
Attorney	**Date Admitted to CA Bar[2]**	**Member Number**	**Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation**
Michael Scott	June 2, 2010	270244	No; please note Scott has been an inactive member of the California State Bar since January 1, 2013.
Art Neill	December 1, 2006	246717	No
David Peffer	June 2, 2010	270479	No

C. CPUC Disallowances and Adjustments:

#	Reason
1. Disallowance for time claimed for Public Participation Hearings (PPH).	We deduct the hours claimed for attending the PPHs, as that time is generally non-compensable. *See* D.11-06-034 at 9, citing D.10-04-025. This reduction is for Mr. Scott, and results in three hours for 2011.
2. Disallowance for excessive hours.	We deduct hours claimed by Scott for reviewing parties' reply comments as no further work ensued; thus this activity did not result in a substantial contribution. This is a 4.1 hour deduction.

[2] This information may be obtained at: http://www.calbar.ca.gov/.

3. Disallowance for excessive hours on NOI.	Scott and Neill both claim their full hourly rate for work in drafting and editing their NOI request. We compensate reasonable time spent on intervenor compensation requests at ½ of a person's hourly rate. We therefore deduct ½ of this time, resulting in a 0.5 hour deduction for Scott and a 0.37 deduction for Neill.
4. Disallowance for duplication of efforts.	After making the above specific deductions, we reduce the time spent by both Scott and Neill in the general category by 10% as irrelevant and internally duplicative, noting that an allocation of most of the hours spent (other than brief-writing) into the general category does not aid in determining if a substantial contribution has been made. An allocation of time spent by issue would have been more useful.
5. Adoption of Art Neill's 2011 hourly rate.	D.10-08-018 approved an hourly rate for Neill's 2010 work at $205. UCAN requests the same hourly rate for Neill's 2011 work here and we approve it.
6. Adoption of David Peffer's 2012 hourly rate.	D.13-11-016 approved an hourly rate for Peffer's 2012 work at $200. We adopt that rate in this proceeding. Because Peffer's 2012 work was to prepare the intervenor compensation claim, he is awarded ½ his hourly rate for this work.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	Yes

If so:

Party	Reason for Opposition	CPUC Disposition
New Cingular Wireless PCS, LLC and Affiliated Wireless Entities	Because D.12-08-025 dismissed this case based on withdrawal of the merger application at the FCC, and was not based on the contributions of UCAN, the statutory requirement for UCAN to make a "substantial contribution" was not met.	New Cingular Wireless PCS, LLC's opposition is rejected. D.12-08-025 granted the authority to award intervenor compensation in this proceeding.

B. Comment Period: Was the 30-day comment period waived (*see* Rule 14.6(c)(6))?	Yes

FINDINGS OF FACT

1. UCAN has made a substantial contribution to D.12-08-025.

2. The requested hourly rates for UCAN'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 compensation is $11,339.75.

CONCLUSION OF LAW

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

ORDER

1. Utility Consumers' Action Network is awarded $11,339.75.

2. Within 30 days of the effective date of this decision, T-Mobile West LLC dba T-Mobile (U3056C) (T-Mobile) and New Cingular Wireless PCS, LLC (U3060C), AT&T Mobility Wireless Operations Holdings Inc. (U3021C), Santa Barbara Cellular Systems, Ltd. (U3015C) and AT&T Mobility Wireless Operations Holdings, LLC (U3014C) (collectively referred to as "AT&T Mobility") shall pay Utility Consumers' Action Network their respective shares of the award, based on their California-jurisdictional telecommunications revenues for the 2011 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 non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning December 5, 2012, the 75th day after the filing of Utility Consumers' Action Networks' 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 Decision(s):	D1208025	
Proceeding(s):	I1106009	
Author:	ALJ Hecht	
Payer(s):	T-Mobile West LLC dba T-Mobile (U3056C) (T-Mobile) and New Cingular Wireless PCS, LLC (U3060C), AT&T Mobility Wireless Operations Holdings Inc. (U3021C), Santa Barbara Cellular Systems, Ltd. (U3015C) and AT&T Mobility Wireless Operations Holdings, LLC (U3014C) (collectively referred to as "AT&T Mobility")	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier	Reason Change/Disallowance
Utility Consumers' Action Network	9/21/2012	$13,814.00	$11,339.75	N/A	Adjustment in hourly rates; reductions for time spent at PPHs, internal duplication and for activity that did not result in a substantial contribution.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Michael	Scott	Attorney	Utility Consumers' Action Network	$155	2011	$155
Art	Neill	Attorney	Utility Consumers' Action Network	$205	2011	$205
David	Peffer	Attorney	Utility Consumers' Action Network	$200	2012	$200

(END OF APPENDIX)