Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

The Utility Reform Network, Complainant, vs. Pacific Bell Telephone Company D/B/A AT&T California (U1001C), Defendant.	Case 13-12-005 (Filed December 6, 2013)

DECISION GRANTING INTERVENOR COMPENSATION TO CENTER FOR ACCESSIBLE TECHNOLOGY FOR SUBSTANTIAL CONTRIBUTION TO DECISION 15-10-027

Intervenor: Center for Accessible Technology (CforAT)	**For contribution to Decision (D.) 15-10-027**
Claimed: $48,880	**Awarded:** $48,880.00
Assigned Commissioner: Michael Picker	**Assigned ALJ: Karl Bemesderfer**

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	The Decision approves a Settlement Agreement that resolves all contested issues among the settling parties, TURN, AT&T and CforAT, and adopts price caps on rates for basic service and LifeLine service offered by AT&T for five years.

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

	Intervenor	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference (PHC):	April 30, 2014	Yes.
2. Other specified date for NOI:	N/A	
3. Date NOI filed:	May 19, 2014	Yes.

4. Was the NOI timely filed?		Yes, Center for Accessible Technology (CforAT) timely filed the Notice of Intent.
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	C.13-12-005	No, the ALJ ruling does not address CforAT's status.
6. Date of ALJ ruling:	8/4/14	No.
7. Based on another CPUC determination (specify):	N/A	Yes, the July 14, 2013 ruling in R.13-03-008.
8. Has the Intervenor demonstrated customer or customer-related status?		Yes.
Showing of "significant financial hardship" (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	See below	N/A.
10. Date of ALJ ruling:	See below	N/A.
11. Based on another CPUC determination (specify):	See below	N/A.
12. Has the Intervenor demonstrated significant financial hardship?		This decision finds that participation in this proceeding poses a significant financial hardship for Center for Accessible Technology.
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.15-10-027	Verified.
14. Date of issuance of Final Order or Decision:	October 29, 2015.	Verified.
15. File date of compensation request:	December 21, 2015.	Verified.
16. Was the request for compensation timely?		Yes, CforAT timely filed the request for intervenor compensation.

C. Additional Comments on Part I:

#	Intervenor's Comment(s)	CPUC Discussion
	In a ruling issued on August 4, 2014, the Administrative Law Judge (at that time, Jessica Hecht) found that the ruling relied upon by CforAT to show a rebuttable finding of significant financial hardship itself relied on yet an earlier ruling that was issued more than one year prior to the commencement of this proceeding. For that reason, the ruling held that CforAT would need to make a showing of financial hardship in conjunction with our request for an award of compensation in this proceeding. Since that time, the Commission has made several findings of CforAT's eligibility for intervenor compensation, including renewed findings of financial hardship. This includes a ruling issued in A.15-07-009 (the proposed Charter/Time Warner Cable merger) on November 20, 2015 and D.15-12-046, issued on December 21, 2015, in A.10-02-028. While these recent rulings should be sufficient to establish financial hardship, CforAT also proffers the following information to show that the organization would not have the resources to participate in Commission proceedings but for the availability of intervenor compensation: CforAT generally represents utility customers with disabilities; in this proceeding CforAT represented the interests of disabled AT&T customers, a vulnerable customer group that is disproportionately low income and also highly dependent on reliable and affordable telecommunications, including advanced telecommunications services, to live independently. This customer group had an interest in the claims raised in the complaint, namely that AT&T's rates for basic service were not "just and reasonable." The settlement adopted in this proceeding limits rate increases for basic service and Lifeline service for the next five years. The Commission has previously recognized that adequate consumer representation requires the participation of parties with special interests. While it is difficult to assign a dollar value to the interests of disabled customers because there is no way of knowing what rates AT&T might have charged for the services that are part of the settlement if the settlement had not been adopted, there is no doubt that they will benefit from the limits on the rate increases as well as the certainty provided by the settlement. However, the economic interest if each individual	Verified. The Commission finds that Center for Accessible Technology demonstrates significant financial hardship and is eligible to receive intervenor compensation in this proceeding.

	member of this group is small when compared to the costs of effective participation in Commission proceedings. As a non-profit organization, CforAT does not accept fees from our constituents. Therefore, CforAT's participation in this proceeding represents a significant financial burden. Absent eligibility for intervenor compensation, CforAT would not have adequate resources to advocate for the interests of persons with disabilities before the Commission generally and would not have been able to participate in this proceeding specifically.	

PART II: SUBSTANTIAL CONTRIBUTION

A. Did the Intervenor substantially contribute to the final decision (*see* § 1802(i), § 1803(a), and D.98-04-059).

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
1. This proceeding was initiated as a Complaint by TURN alleging that rates for residential basic service offered by AT&T were not just and reasonable. The proceeding raised multiple procedural issues that needed resolution by the Commission, as well as detailed factual disputes. The record includes substantial testimony, and hearings were scheduled. Prior to hearings, however, the active parties entered into settlement negotiations, leading to a negotiated resolution that was reviewed by the Commission and found to be reasonable under the appropriate standards. While additional parties participated in the proceeding at various times, CforAT was the only party in this complaint proceeding other than the	*See* Joint Motion by TURN, AT&T and CforAT to accept testimony into the record, filed on May 15, 2015, including Attachment E (Opening Testimony of Henry J. Contreras on behalf of CforAT,	Verified.

Complainant (TURN) and the Defendant (AT&T) to actively participate in all stages of the proceeding, including the preparation of testimony and as a party to the eventual settlement.	or "Contreras Opening Testimony") and Attachment J (Reply Testimony of Henry J. Contreras on behalf of CforAT or "Contreras Reply Testimony"). These documents were admitted into the record in the Final Decision at page 3. *See also* Settlement Agreement incorporated as Attachment A to the Final Decision.	
2. CforAT's testimony supported the position of the Complainant TURN that rates increases by AT&T resulted in rates that were not just and reasonable by illustrating affordability issues facing vulnerable customers, including customers with disabilities.	The Contreras Testimony addressed the importance of affordable telecommunications for people with disabilities and the concerns of the disability community when faced with rates that are not affordable. In addition to the discussion of the needs of vulnerable customers, the testimony included affordability data from the Commission's Low Income Needs Assessment and other sources. *See generally* Contreras Opening Testimony and Contreras Reply Testimony. This testimony supported the argument advanced by TURN and CforAT that the Commission should act to preserve the affordability of necessary services such as basic telecommunications within its jurisdiction rather than abandon customers to face ongoing price increases if AT&T believes that such increases are what the market can bear.	Verified.
3. Following the submission of testimony, the active parties entered into settlement negotiations to resolve the claims raised in the Complaint. While settlement discussions are confidential, CforAT believes that the strong evidence set out by TURN on behalf of consumers generally and supported by CforAT on behalf of vulnerable consumers	Final Decision at pp. 4-7, reviewing and adopting the settlement, noting that the parties to the settlement "had a sound and thorough understanding of the issues," and noting the benefits to customer of the impacted services.	Verified. Center for Accessible Technology's representation of the terms of the settlement approved in D.15-10-027 is accurate and its description of its prior litigation positions is also accurate. Pursuant to

allowed for negotiations to take place that resulted in a settlement which is reasonable in light of the record, consistent with existing law, and in the public interest. Specifically, the settlement caps rate increases for AT&T's basic service and LifeLine service at no more than $3/mo over the five year term of the agreement, and no more than $1/mo in any single year. This limits the exposure of vulnerable customers to rate increases of greater magnitude, and provides certainty for the term of the agreement		(D.) 94-10-029, the Commission has discretion to award compensation to parties who participated in settlement agreements, when there is a finding that they made a substantial contribution to a decision. We find that CforAT's participation in the settlement made a substantial contribution to D.15-10-027.
4. In keeping with our obligations under the settlement, CforAT supported the provisions of a Proposed Decision that adopted the settlement, while seeking various clarifications (in conjunction with TURN) to more accurately reflect the record and Commission precedent. The final decision adopted most of the clarifications suggested by CforAT and TURN, which were beneficial to consumers.	Compare Proposed Decision, Opening Comments of TURN and CforAT on Proposed Decision (filed on July 8, 2015), Reply Comments of TURN and CforAT (filed on July 13, 2015) and Final Decision. Specifically, compare PD Discussion at pp. 6-7, Final Decision Discussion at pp. 6-7, and TURN/CforAT Opening Comments at pp. 3-5. In response to TURN and CforAT's Comments, modifications to the PD included: - Changes to the discussion of the Commission's prior URF decisions to remove unnecessary and erroneous analysis. Removal of language stating that ILECS can set rates however they choose and substitution of language regarding the Commission's obligation to ensure that rates remain just and reasonable - Clarification of the discussion of	Verified.

	ORA's opposition to the settlement, indicating that the adopted agreement does not "approve" rate increases but rather caps them. - Clarification of the rights of parties to participate in any industry-wide review of the state of competition in the telecommunications marketplace.	

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

	Intervenor's Assertion	CPUC Discussion
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?	**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: TURNs position was similar throughout the proceeding. The Greenlining Institute and the Consumer Federation of California, to the extent they participated, generally held similar positions. At times, ORA held similar positions, while at other times (including with regard to the settlement overall) the position of ORA was not similar.		Agreed.
d. Intervenor's claim of non-duplication: As noted above, CforAT was the only party to actively participate through all stages of the proceeding other than the Complainant and the Defendant. TURN, the complainant, broadly represented the interests of all AT&T customers, while CforAT focused more narrowly on the particular needs of vulnerable customers and specifically customers with disabilities. Procedurally, during various stages of the proceeding, other parties adequately addressed common issues; at those times, CforAT stepped back in order to avoid duplication. This largely took place when the focus was on legal analysis, not customer impact, and included a round of briefing early in the proceeding on AT&T's Motion to Dismiss the Complaint, which was addressed by both TURN and ORA. It also included a later round of briefing on the allocation of the burden of proof, which was also addressed by both TURN and ORA. In preparing testimony, CforAT focused on the impact of the rates that were the basis of the Complaint on vulnerable customers, and specifically		Agreed.

on customers with disabilities. This supported and supplemented the information provided by TURN, which was necessarily focused more broadly on the state of the telecommunications marketplace, on policy and economic analysis, and on the impact of increases in AT&T's rates on the general population of consumers. By providing more focused review of vulnerable customers and the impact of rate increases on this population, CforAT was able to bring attention to the needs of an important customer segment that has been highly impacted by the matters addressed in this proceeding. In negotiating the settlement, CforAT similarly came to the table with a focus on the needs of vulnerable customers. This perspective bolstered the position of TURN, which was negotiating based on the needs of the general customer base. CforAT's participation also supported the inclusion of rate caps for Lifeline service. Without the settlement, rate caps for LifeLine would have been lifted in June of 2015. Once the settling parties reached general agreement, CforAT worked cooperatively and effectively with the other active parties to finalize a settlement, bring it before the Commission, and support it in response to arguments from ORA that it should not be adopted.	

PART III: REASONABLENESS OF REQUESTED COMPENSATION
A. General Claim of Reasonableness (§ 1801 and § 1806):

a. Intervenor's claim of cost reasonableness:	**CPUC Discussion**
CforAT's participation in this proceeding contributed to the adoption of a settlement that caps rate increases on telecommunication services that are vital for vulnerable customers, including customers with disabilities. While there is no way to determine what rate increases might have been implemented by AT&T during the term of the settlement if such caps were not adopted (and thus no way to calculate a benefit in terms of dollars for our constituency), it is likely that all customers who purchase these services would have faced larger increases if the settlement were not adopted. In addition, the settlement provides certainty over the term of the agreement regarding the maximum price increases that subscribers to these services will face. This certainty also provides value to low income and vulnerable customers, as they know what to anticipate as they budget their resources. Finally, in addition to these benefits, our constituency faced documented harms, as shown in CforAT's filings, if they were subject to rates for basic telecommunication service that are not just and reasonable. Avoiding such harms further benefits these customers. Collectively, these benefits to the thousands of vulnerable AT&T customers, including customers with disabilities, outweigh the cost of CforAT's participation.	Verified.

b. Reasonableness of hours claimed: In our NOI, filed on May 19, 2014, CforAT estimated that we would expend 100 attorney hours and 40 expert hours participating in this proceeding. The attorney time claimed, as detailed below and in the attached time records, is very close to the estimated amounts. The expert time claimed is substantially less than anticipated (less than 10 hours compared to 40 hours). On expert matters, CforAT retained Henry Contreras of CFILC as an outside expert instead of relying on internal expert Dmitri Belser, but the expert rates are comparable. CforAT's claim includes only a fraction of the time spent by TURN, the lead Complainant in this matter, which accurately reflects our supporting role. As documented above, CforAT reasonable expended this effort to reflect the specific needs of vulnerable customers, which supported and supplemented the general claims raised on behalf of AT&T's general customer base.	Verified.
c. Allocation of hours by issue: In our NOI, CforAT identified the issues that we intended to address in this proceeding as: (1) Just and reasonable rates; (2) Harm to consumers if rates are not just and reasonable; (3) Remedies, and (4) General Participation. As documented in our detailed time records, the actual issue classifications used for time by counsel include "Affordability," which effectively encapsulates both "just and reasonable rates" and "harm" and "General Participation," which includes activity necessary to follow the proceeding, procedural matters (such as attending the PHC) as well as activities where CforAT was not an active participation (such as briefing on a motion to dismiss and review of discovery by other parties). Additional issues used in CforAT's time records include "Settlement" for all time spent both negotiating the agreement and addressing procedural matters surrounding the presentation of the agreement to the Commission, and "PD," for work after the proposed decision was issued in the proceeding. This work included support for the settlement and efforts to seek clarifications in the language of the decision, as discussed above. A small amount of time is also classified as "Hearings/Briefing." This time was spent preparing for hearings, which were planned but not held based on scheduling issues and the subsequent development of settlement talks. All time spent by CforAT's outside expert was focused on Affordability. <u>2014 Time (focused on litigation):</u> Total 61.2 hours	Verified.

Affordability: 30.0 hours (49%) General Participation: 26.8 hours (44%) Hearing/Briefing: 4.4 hours (7%) <u>2015 Time (focused on settlement and obtaining a final decision):</u> Total 35.6 hours Settlement: 20.5 hours (58%) PD: 13.8 hours (39%) General Participation: 0.2 hours (<1%) Hearing/Briefing: 1.1 hours (3%)	

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Hours**	**Rate $**	**Total $**
Melissa W. Kasnitz	2014	61.2	$450	D.15-01-047	$27,540	61.2	$450.00	27,540.00
Melissa W. Kasnitz	2015	35.6	$450	ALJ-308 (no COLA for 2015)	$16,020	35.6	$450.00	16,020.00
Henry Contreras (Expert, CFILC)	2014	9.4	$250	D.15-03-013	$2,350 See comment below.	9.4	$250.00	2,350.00
					***Subtotal:* $45,910**			***Subtotal:* $45,910.00**
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Hours**	**Rate**	**Total $**
Melissa W. Kasnitz	2014	1.2	$225	½ standard rate	$270	1.2	$225.00	270.00
Melissa W. Kasnitz	2015	12.0	$225	½ standard rate	$2,700	12.0	$225.00	2,700.00
					***Subtotal:* $2,970**			***Subtotal:* $2,970.00**
					TOTAL REQUEST: $48,880			**TOTAL AWARD: $48,880.00**
**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. Intervenor'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. **Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate.			
ATTORNEY INFORMATION			
Attorney	**Date Admitted to CA BAR[1]**	**Member Number**	**Actions Affecting Eligibility (Yes/No?)**
Melissa W. Kasnitz	December, 1992	162679	No, but includes periods of inactive status prior to 1997 (01/01/1993-01/25/1995; 01/01/1996-02/19/1997).

C. Attachments Documenting Specific Claim and Comments on Part III

Comment #	Intervenor's Comment(s)
Comment (CFILC Invoice)	CforAT's Time Records include two entries that reflect consultation with CFILC Staff Member Kim Cantrell, as well as involvement with the work performed by Henry Contreras. Ms. Cantrell is CFILC's Director of Programs, and she briefly assisted in identifying ILC clients who are impacted by AT&T's basic service and Lifeline rates. CFILC is not seeking compensation for the time spent by Ms. Cantrell.

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(c)(6))?	Yes.

FINDINGS OF FACT

1. CforAT has made a substantial contribution to D.15-10-027.

2. CforAT has shown that participation in the proceeding poses a significant financial hardship.

[1] This information may be obtained through the State Bar of California's website at http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch .

3. The requested hourly rates for CforAT's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.

4. The claimed costs and expenses are reasonable and commensurate with the work performed.

5. The total of reasonable compensation is $48,880.00.

CONCLUSION OF LAW

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

ORDER

1. Center for Accessible Technology shall be awarded $48,880.00.

2. Within 30 days of the effective date of this decision, Pacific Bell Telephone Company d/b/a AT&T California shall pay Center for Accessible Technology the total award. 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 05, 2016, the 75th day after the filing of Intervenor's request, and continuing until full payment is made.

3. The comment period for today's decision is waived.

This decision is effective today.

Dated _____, 2016, at San Francisco, California.

APPENDIX
Compensation Decision Summary Information

Compensation Decision:		**Modifies Decision?**	No
Contribution Decision(s):	D1510027		
Proceeding(s):	C1312005		
Author:	ALJ Bemesderfer		
Payer(s):	Pacific Bell Telephone Company d/b/a AT&T California		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Center for Accessible Technology	12/21/2015	$48,880.00	$48,880.00	N/A	*See* CPUC Disallowances and Adjustments, above.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Melissa W.	Kasnitz	Attorney	CforAT	$450.00	2014	$450.00
Melissa W.	Kasnitz	Attorney	CforAT	$450.00	2015	$450.00
Henry J.	Contreras	Expert	CforAT	$250.00	2014	$250.00

(END OF APPENDIX)