

Decision **PROPOSED DECISION OF ALJ KIM** (Mailed 12/11/2015)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Approval of its 2012-2014 California Alternate Rates for Energy (CARE) and Energy Savings Assistance Programs and Budgets.

Application 11-05-017
(Filed May 16, 2011)

And Related Matters.

Application 11-05-018
Application 11-05-019
Application 11-05-020

DECISION DENYING COMPENSATION TO CENTER FOR ACCESSIBLE TECHNOLOGY FOR FAILURE TO TIMELY FILE THE CLAIM FOR INTERVENOR COMPENSATION

Intervenor: Center for Accessible Technology (CforAT)	For contribution to Decision (D.) 14-08-030 and D.12-12-011
Claimed: \$73,122.92	Awarded: \$0.00
Assigned Commissioner: Catherine J.K. Sandoval	Assigned ALJ: Kimberly Kim

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	<p>D.14-08-030 (the Phase 2 Decision) resolves and/or continues the review of several pending Phase II issues, resolves several pending petitions for modification of D.12-08-044, authorizes bridge funding for the IOUs¹, ESA² and CARE³ Programs, authorizes continued funding for the CHANGES⁴ pilot program, provides guidance to the IOUs in preparation of their 2015-2017 CARE and ESA Programs and Budget Applications, directs the IOUs to file their 2015-2017 applications within 90 days of issuance of this decision, and makes minor corrections and clarifications to D.12-08-044.</p> <p>D.12-12-011 (the CHANGES decision) continued funding for the CHANGES program.</p>
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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):	August 8, 2011	Verified.
2. Other specified date for NOI:	N/A	
3. Date NOI filed:	September 7, 2011	Verified.
4. Was the NOI timely filed?		Yes, CforAT timely filed the notice of intent to claim intervenor compensation.
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	A.11-05-017 et al.	Verified.
6. Date of ALJ ruling:	October 20, 2011	Verified.
7. Based on another CPUC determination	N/A	

¹ Investor Owned Utilities’.

² Energy Savings Assistance.

³ California Alternate Rates for Energy.

⁴ Community Help and Awareness with Natural Gas and Electricity Services.

(specify):		
8. Has the Intervenor demonstrated customer or customer-related status?		Yes, CforAT demonstrated status as a Category 3 customer.
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	A.11-05-017	Verified.
10. Date of ALJ ruling:	October 20, 2011	Verified.
11. Based on another CPUC determination (specify):	N/A	
12. Has the Intervenor demonstrated significant financial hardship?		Yes, CforAT demonstrated significant financial hardship.
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.14-08-030	Verified.
14. Date of issuance of Final Order or Decision:	August 20, 2014	Verified.
15. File date of compensation request:	10/20/14	10/21/2014
16. Was the request for compensation timely?		No. CforAT did not timely file the request for compensation and no compensation will be awarded for this claim. <i>See Part I.V., below.</i>

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. Eligibility Issues: Subsequent to the Phase 1 Decision in this proceeding, two key issues regarding consumer eligibility for CARE		Because CforAT did not timely file the request for compensation, the Commission did not

<p>emerged, requiring substantial attention from CforAT and other consumer groups to preserve enrollment opportunities and program retention for low-income consumers. These two key issues were categorical eligibility for CARE (CE), and questions regarding post-enrollment verification (PEV).</p>		<p>assess the alleged substantial contributions of the Intervenor.</p>
<p>Eligibility: CE</p> <p>The Phase 1 Decision in this proceeding required the IOUs to file an advice letter addressing benefit programs whose eligibility requirements align sufficiently with CARE to use as an alternative to income-based enrollment. The IOUs filed a joint advice letter proposing to significantly reduce the number qualifying programs.</p> <p>Many people with disabilities participate in a variety of public benefit programs, making categorical eligibility a simple and effective means for such customers to demonstrate eligibility for CARE. Because of the importance of CE for our constituency, CforAT was deeply concerned about efforts to limit its utility. In response to the IOU's proposal to substantially reduce the number of qualifying programs, CforAT worked with other consumer groups to protest the advice letter and pursue a Commission resolution to the policy</p>	<p>CforAT's written submissions regarding CE include participation in a joint protest of PG&E Advice Letter 3340-G/4136-E (Revised CARE Program Re-Certification Application for Residential Single-Family Customers), submitted on November 29, 2012 and a further protest of a joint letter from the IOUs issued on January 31, 2013 identifying a dramatically reduced list of programs for categorical eligibility. The consumer protest of the joint advice letter was submitted on February 20, 2013.</p> <p>The consumer protests resulted in a suspension of the joint advice letter on February 28, 2013, and further proceedings by the Commission, including a discussion at the Low Income Oversight Board Meeting on February 27, 2013, a further joint letter from the consumer groups addressing key policy issues raised by the IOUs' efforts to restrict CE, and arguing for a resolution of issues at the Commission level rather than the staff level due to the non-ministerial nature of the proposed changes to the program.</p> <p>While this issue was pending, the Commission declined to change any CE requirements for 2013-2014 in its annual income guideline letter, issued</p>	<p>Because CforAT did not timely file the request for compensation, the Commission did not assess the alleged substantial contributions of the Intervenor.</p>

<p>questions raised by IOU’s proposal. This included multiple sets of written comments, participation in an all-party meeting and additional ex parte meetings, and other activity conducted in a coordinated manner with ORA, TURN and Greenlining. CforAT was active with other consumers in developing all aspects of the strategy and in producing materials in opposition to efforts to limit CE, as detailed in our time records.</p> <p>As this issue was developed, CforAT worked closely in coordination with other consumer groups to address the IOUs’ proposals comprehensively, but efficiently.</p>	<p>on March 29, 2013 and then subsequently rejected the joint IOU letter on May 1, 2013. An All-Party meeting was then held on May 16, 2013, with questions provided to the parties in advance. CforAT coordinated with the other consumer groups to address the issues presented for the all-party meeting.</p> <p>On February 25, 2014, an Assigned Commissioner’s Ruling requesting further input from parties on CE was issued (no changes were made to the existing list of CE programs during the delay). CforAT worked closely with the other consumer groups to provide a detailed response.</p> <p>The Phase 2 Decision briefly recounts this history, notes that the issues as developed by the parties are complex, and refers questions regarding categorical eligibility to the upcoming 2015-2017 program cycle proceeding. Phase 2 Decision at pp. 69-71. At the same time, the Phase 2 Decision clearly directs the IOUs to make no changes to the existing list of qualifying programs until the Commission takes further action, and notes (consistent with consumer requests) that housing subsidies should not be counted as income. <i>Id.</i> at p. 71. While these actions are do not bring the issues surrounding categorical eligibility to a conclusion, they mark a substantial contribution by consumers, including CforAT, because the consumer groups prevented the attempt by the IOUs to use the ministerial proceedings authorized by the Phase 1 Decision to make substantial changes to the program, preserved the status quo, and developed a record to ensure that the Commission is aware of the complexities surrounding the issue.</p>	
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	<p>The fact that this work, and these results, were achieved in direct response to issues raised by the IOUs (in advice letters required by the Phase 1 Decision) and the Commission (via the ACR requesting party input) means that the work was appropriately conducted within the scope of this proceeding, making compensation appropriate at this time.</p>	
<p>Eligibility: PEV & Other Eligibility Issues</p> <p>In September of 2013, as required by the Phase 1 Decision, the IOUs set forth proposals for use of post-enrollment verification models (PEV) to validate customer eligibility for CARE by targeting those customers who were determined by use of various algorithms to be less likely to be appropriately enrolled. CforAT worked with other consumer groups to evaluate the proposed models and ensure that they did not overburden customers who were appropriately enrolled in CARE.</p> <p>Additionally, throughout Phase 2 of this proceeding and as reflected in CforAT’s time records, CforAT closely monitored activity that would potentially impact CARE eligibility due to the importance of the CARE program for our constituency. Examples of other items reflected in CforAT’s time records regarding eligibility matters include close review of the IOUs’ income-limit</p>	<p>While CforAT’s oversight of eligibility issues other than CE is not directly reflected in the Phase 2 Decision, our work in conjunction with the work of other parties to effectively implement the policy decisions on eligibility adopted in Phase 1 are well documented in the time records submitted and are appropriate for compensation.</p>	<p>Because CforAT did not timely file the request for compensation, the Commission did not assess the alleged substantial contributions of the Intervenor.</p> <p>Additionally, simply conducting research on issues, and documenting the action in time records, does <u>not</u> offer support for substantial contribution.</p>

<p>adjustments (see e.g. time entries on 12/4/13, 12/5/13, and 4/1/14), concerns about revisions to application forms and availability of forms in local offices (see e.g. time entries on 11/22/13, 11/27/13, 12/2/13, 4/8/14, 4/30/14), and other similar matters throughout this phase of the proceeding.</p>		
<p>2. LINA: CforAT, in conjunction with the Greenlining Institute, took the lead in efforts to ensure that the new Low-Income Needs Assessment ordered in Phase 1 of this proceeding was properly and timely conducted and issued. CforAT opposed delay in issuing the LINA, worked to ensure that the record was clear on how the delay that was permitted came to pass, and worked to ensure that the results of the LINA were understandable and useful. CforAT also took the lead in ensuring that the Commission formally adopted the LINA to avoid any disputes about its authority as evidence in other Commission proceedings.</p>	<p>See Center for Accessible Technology’s Motion to Correct the Record, filed on October 9, 2013 for a summary of CforAT’s concerns about the timely release of the LINA and our efforts to oppose delay and ensure that the record was clear.</p> <p>See matrix of changes provided with the final LINA showing responses to substantive input from CforAT after release of the initial study draft.</p> <p>In addition to our earlier work on the LINA, CforAT was the primary consumer organization to address the LINA in both opening and reply comments on both the PD and the AD, primarily to urge that the study be formally adopted by the Commission. CforAT Comments on PD at pp. 2-5, CforAT Reply Comments on PD at p. 4; CforAT Comments on AD at pp. 3-5; CforAT Reply Comments on AD at pp. 2-3.</p> <p>While not citing the input of CforAT, the Phase 2 Final Decision expressly adopts the 2013 LINA, consistent with CforAT’s recommendations. Phase 2 Final Decision at p. 57; see also Phase 2 Final Decision at p. 102 (COL 41) and p. 118 (Ordering Paragraph 34).</p>	<p>Because CforAT did not timely file the request for compensation, the Commission did not assess the alleged substantial contributions of the Intervenor.</p>
<p>3. CHANGES: CforAT closely followed</p>	<p>CforAT supported continued funding for the CHANGES program through the 2012-2014 low-income program cycle,</p>	<p>Because CforAT did not timely file the request for</p>

<p>activity around the CHANGES program to ensure that it allows inclusion of disability-related CBOs and to support its ongoing viability.</p>	<p>and opposed efforts by the IOUs to take direct responsibility to administer the program directly. <i>See</i> Reply Comments on the CHANGES PD filed jointly by TURN, CforAT, DRA, and the Greenlining Institute on December 17, 2012 at pp. 1-2 and CHANGES Decision at pp.36-42. <i>See</i> also Phase 2 Decision at pp. 81 (further extending the program into the 2015-2017 program cycle) and CforAT’s Reply Comments on AD at p. 3 (in support of the extension of CHANGES).</p>	<p>compensation, the Commission did not assess the alleged substantial contributions of the Intervenor.</p>
<p>4. Other Implementation Issues:</p> <p>CforAT monitored work in Phase 2 to implement various orders from Phase 1, including various reports, workshops, and other activity. Where appropriate, CforAT participated in these efforts to support effective program implementation for our constituency. For example, while CforAT was not as active as other parties in efforts such as review of ESAP measures (including cost-effectiveness), energy education, multi-family issues, or the mid-cycle working group, we reviewed activity in each of these program areas and made contributions to maximize effectiveness for people with disabilities.</p>	<p>CforAT’s contributions to the various implementation issues are noted in our time records (including participation in scheduled workshops and input on draft reports); <i>see also</i> CforAT’s Opening Comments on PD at p. 5; CforAT’s Reply Comments on PD at pp. 2-3; and CforAT’s Opening Comments on AD at pp. 5-6 reflecting CforAT’s coordination with other parties and support for effective resolution of concerns regarding various implementation issues. .</p>	<p>Because CforAT did not timely file the request for compensation, the Commission did not assess the alleged substantial contributions of the Intervenor.</p>

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?⁵	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: On virtually all issues where CforAT actively participated, we had similar positions to ORA, TURN, Greenlining Institute. While CforAT was less active on other issues, including most Phase 2 issues regarding ESAP, we frequently supported the position of other groups on matters such as multi-family issues, energy education, and other items that would impact our constituency. In addition to the groups identified above, CforAT also took similar positions to the National Consumer Law Center (NCLC) and the other housing groups focused on multi-family issues.		Verified.
d. Intervenor’s claim of non-duplication: CforAT closely coordinated with other intervenors on Phase 2 issues. On the various eligibility issues, including categorical eligibility and post-enrollment verification, the consumer groups all worked together to develop and implement a strategy to address the IOU efforts to substantially reduce the reach of program-based enrollment opportunities. CforAT was involved in all aspects of the work on CE in response to the IOUs’ Advice Letter submissions and the ACR on this issue; however, in order to avoid duplication, CforAT coordinated with other consumer groups in comments on the PD and AD regarding this issue, and supported the work by those parties rather than writing separately. On the issue of the importance of the LINA, CforAT worked most closely with the Greenlining Institute, which is the other intervenor organization most directly focused on vulnerable consumers, but also sought to coordinate with all consumer groups to the extent appropriate. Again, as an example, this is an issue where CforAT took the lead in comments on the PD and AD, while coordinating with other consumer groups that supported the same outcome. These issues, plus oversight of the CHANGES program, were of most direct concern to CforAT, and were the issues where CforAT took a very active role. Other implementation issues, including energy education, multi-family		Because CforAT did not timely file the request for compensation, the Commission did not assess Intervenor’s claim of non-duplication.

⁵ 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.

<p>eligibility/participation in ESAP, the mid-cycle working group process, and others, were also significant for CforAT’s constituency, and we appropriately monitored and participated in efforts concerning this issues through Phase 2. At the same time, other consumer groups were more focused on these issues than CforAT. Because of this, we were able to limit our efforts to coordinating with the most active parties, providing input as appropriate, and avoiding duplication of effort. For example, CforAT deferred to the active multi-family groups on most issues concerning that aspect of implementation, but provided input on the multi-family study to the extent that it impacts people with disabilities. Similarly, CforAT did not take the lead on energy education issues, but participated to ensure that any energy education efforts implemented would be conducted in a manner that is accessible to people with disabilities who cannot use standard forms of communication.</p>	
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C. Additional Comments on Part II:

#	Intervenor’s Comment	CPUC Discussion
	<p>To the extent that the Commission declines to award compensation for work done by consumer groups including CforAT on the issue of categorical eligibility because questions raised in this proceeding have been referred to the next application cycle, CforAT requests that the Commission state clearly that parties are authorized to resubmit time spent in this proceeding with further efforts that we anticipate will be conducted in the next-cycle application process.</p> <p>Commission precedent allows compensation to be awarded when there is no final decision on the merits if work was within the scope of a matter when it was conducted and the party performing the work did not cause (and could not have</p>	<p>As evaluated in the forthcoming decision awarding intervenor compensation to TURN in the present proceeding, compensation requests concerning categorical eligibility are appropriate in A.11-05-017. The Commission will not compensate CforAT if the intervenor requests compensation on this issue in a future proceeding.</p>

<p>predicted) the conclusion of the proceeding without a substantive result. <i>See e.g.</i> D.12-08-025 (specifically authorizing consumer groups to request compensation for work in a merger proceeding after the proceeding was rendered moot upon a request by the applicants to withdraw the Application). Thus, CforAT reiterates our request for compensation to be awarded now for work on categorical eligibility. However, to the extent that the Commission defers any award of compensation, it should ensure that time already appropriately spent on this issue remains eligible for eventual compensation.</p>	
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PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

<p>a. Intervenor’s claim of cost reasonableness:</p> <p>While it is difficult to assign a dollar value to the benefit provided to CforAT’s constituency from this decision, there is no dispute that the CARE and ESAP programs are extremely significant for IOU customers with disabilities. In working to ensure that the Commission’s policy decisions regarding these programs are implemented effectively, that eligibility options remain open, and that appropriate data on low-income households is collected and used for future policy-making decisions reflecting the needs of our constituency, CforAT obtains benefits for all low-income customers with disabilities that none could obtain acting individually. In particular, preserving categorical eligibility for low-income households, including eligibility based on programs that serve many low income people with disabilities, ensures their ability to obtain or retain CARE discounts with a value far beyond CforAT’s costs of participation. Other benefits that are harder to quantify also preserve the low-income programs’ accessibility and usefulness for people with disabilities.</p>	<p style="text-align: center;"><u>CPUC Discussion</u></p> <p>Because CforAT did not timely file the request for compensation, the Commission did not assess the claims of cost reasonableness.</p>
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<p>b. Reasonableness of hours claimed:</p> <p>As noted above, CforAT worked closely with other consumers on issues where our interests aligned, allowing us to allocate tasks and produce input for the record jointly in order to maintain efficiencies. CforAT also selectively focused on issues of importance to our constituency, with focused attention on key issues such as categorical eligibility and the LINA, and input at optimized times on other implementation issues.</p> <p>In order to coordinate effectively with other parties, CforAT necessarily and reasonably spent time on coordination efforts, as well as time reviewing and editing draft documents prepared by other parties. In some circumstances, CforAT was the lead in drafting, while in others our role was primarily to develop and enhance the coordinated output. These efforts are necessary to allow for effective coordination and cooperation, and promote overall efficiencies for parties, the Commission, and for ratepayers. Thus the Commission should not penalize cooperating parties by denying compensation for time reasonably spent to ensure effective coordination on positions, strategies and documents.</p>	<p>Because CforAT did not timely file the request for compensation, the Commission did not assess the reasonableness of the hours claimed.</p>
<p>c. Allocation of hours by issue:</p> <p>CforAT’s time records are allocated into the following issues:</p> <p>Eligibility: This issue category includes time spent on the issue of Categorical Eligibility, Post-Enrollment Verification, and other matters that came up during Phase 2 of this proceeding impacting consumer eligibility for CARE.</p> <p>Low Income Needs Assessment (LINA): This issue category includes time spent addressing the Low-Income Needs Assessment.</p> <p>CHANGES: This issue category includes time spent addressing the CHANGES program.</p> <p>Implementation: This issue includes time spent addressing other substantive Phase 2 issues in which CforAT did not take a lead role, but rather monitored and offered input as appropriate to protect the interests of our constituency. This issue category includes review and input on energy education, multi-family work, the mid-cycle working group’s efforts, ESAP measures (including cost-effectiveness), and other mandated activity from Phase 1. In addition, all time addressing the Phase 2 PD is included as “Implementation,” though CforAT’s comments and active participation reflected substantially the other separately identified issues on which we were active such as eligibility and the LINA. These entries are all categorized as “implementation” because it is not possible to subdivide</p>	<p>Verified.</p>

them into the separate issues.

General Participation (GP): This issue includes time spent on general activity in the proceeding not directly related to implementation of Phase 1 obligations, such as reviewing filings and participating in activities related to the upcoming next-cycle application process.

The annual breakdown of CforAT's time by issue is as follows:

2012 Time (9.8 hours total):

CHANGES:	4.3 hours (44%)
Eligibility:	3.6 hours (37%)
GP:	1.1 hours (11%)
Implementation:	0.1 hours (8%)

2013 Time (88.9 hours total):

CHANGES:	0.1 hours (<1%)
Eligibility:	28.3 hours (32%)
GP:	1.0 hours (1%)
Implementation:	25.8 hours (29%)
LINA:	33.7 hours (38%)

2014 Time (60.8 hours total):

CHANGES:	0.1 hours (<1%)
Eligibility:	20.0 hours (33%)
GP:	6.8 hours (11%)
Implementation:	32.8 hours (54%)
LINA:	1.1 hours (2%)

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours [1]	Rate \$	Total \$
Melissa W. Kasnitz	2012	9.8	\$430	D.13-04-008	\$4,214	00.00	\$00.00	\$00.00
Melissa W. Kasnitz	2013	88.9	\$440	D.13-11-007	\$39,116	00.00	\$00.00	\$00.00
Melissa W. Kasnitz	2014	60.8	\$450	See below	\$27,360	00.00	\$00.00	\$00.00
Subtotal: \$ 70,690.00						Subtotal: \$59,803.00		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Melissa W. Kasnitz	2014	10.5	\$225	½ standard rates	\$2,362.50	00.00	\$00.00	\$00.00
Subtotal: \$2,362.50						Subtotal: \$00.00		
COSTS								
#	Item	Detail			Amount	Amount \$		
	Postage	See attached expense report			\$32.52	\$00.00		
	Printing/copying	See attached expense report and comment below			\$109.50	\$00.00		
	Transportation	See attached expense report			\$28.40	\$00.00		
		Subtotal:			\$170.42	Subtotal: \$00.00		
TOTAL REQUEST: \$73,122.92						TOTAL AWARD: \$00.00		
<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. 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.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer’s normal hourly rate</p>								

ATTORNEY INFORMATION			
Attorney	Date Admitted to CA BAR ⁶	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
Melissa W. Kasnitz	December 1992	162679	No, but Kasnitz was inactive from 1/1/1993 until 1/25/1995 and from 1/1/1996 until 2/19/1997.

C. Intervenor's Comments on Part III

Comment #	Intervenor's Comment(s)
1	Justification for 2014 Rate – Melissa W. Kasnitz: As noted above, Ms Kasnitz's approved rate for 2013 is \$440 per hour. No COLA or other rate adjustment has yet been authorized for 2014. However, if a 2% COLA, consistent with what was authorized for 2013, is eventually approved, the appropriate adjustment would result in a rate of \$450 for 2014. To the extent that a different rate adjustment is eventually authorized, CforAT requests that the adopted adjustment be applied in place of this estimate. CforAT has requested a 2014 rate of \$450 for Ms. Kasnitz in multiple other pending compensation requests in other proceedings, but no decision has yet issued authorizing such rate.
2	Printing/Copying Expenses: CforAT absorbs most printing/copying costs as overhead expenses. However, as a small nonprofit, we do not have printers/copiers capable of easily producing large documents. In order to obtain necessary large documents effectively, CforAT has arranged with another nonprofit, Disability Rights Education and Defense Fund (DREDF) to use their high-capacity printer/copier for production of selected large documents, for which DREDF charges CforAT at its regular rate (approved by various courts) of \$0.25 per page. In this case, CforAT printed the draft LINA, the PD and the AD for close review.

⁶ This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

D. CPUC Disallowances and Adjustments:

Item	Reason
[1]	Because CforAT did not file the request for compensation within 60 days, as required by Pub. Util. Code § 1804(c), the Commission must deny the request for compensation.

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))

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

If not:

Party	Comment	CPUC Discussion
Center for Accessible Technology (CforAT)	<p>CforAT states the Commission’s 5:00pm deadline for accepting documents is a Commission rule, not found in statute. This deadline should be waived by the Commission, as the Commission has discretion to waive its own rules in special cases and for good cause shown. Rules of Practice and Procedure, Rule 1.2.</p> <p>CforAT contends that although the document was not formally filed with the Commission, service to parties and the ALJ was timely and no party was harmed. CforAT notes that the Commission, in past proceedings, has waived the 60-day deadline and granted compensation. Intervenor states that it promptly attempted to cure its error.</p>	<p>Pursuant to § 1804(c) of the California Public Utilities Code, an intervenor may file a request for compensation within 60 days of the issuance of a final decision or order. As interpreted in the Commission’s Rules of Practice and Procedure, “[a] request for an award of compensation may be filed after the issuance of a decision that resolves an issue on which the intervenor believes it made a substantial contribution, but in no event later than 60 days after the issuance of the decision closing the proceeding.” Rule 17.3, California Public Utilities Commission Rules of Practice and Procedure. In addition, Rule 1.15 states that documents submitted to the Commission after 5:00 p.m. are deemed filed on the following day.</p> <p>Here, Decision 14-08-030 constitutes the final decision closing the proceeding. Pursuant to Rule 1.15, time is computed by excluding the first</p>

		<p>day (i.e., the day of the act or event from which the designated time begins to run) and including the last day. If the last day falls on a Saturday, Sunday, holiday or other day when the Commission offices are closed, the time limit is extended to include the first day thereafter. The Decision issued on August 20, 2014. The 60th day following the issuance of the Decision was October 19, 2014, a Sunday. Pursuant to the Rules, CforAT was allowed to file on October 20, 2014. CforAT filed its request for compensation after the 5:00 p.m. deadline and the submission is deemed as having been filed on October 21, 2014. Intervenor’s request was not timely filed.</p> <p>There have been prior instances where the Commission granted awards on claims that were untimely filed. Such decisions have been cited by intervenors in the filed comments and included: D.06-07-019, D.13-10-033, and D.13-11-016. However, we have since determined that the Commission does not have the discretion to grant awards on claims that are not filed in accordance with §1804(c). See e.g., D.15-07-017.</p> <p>In D.14-12-034 (part of A.10-07-009), a unanimous and recent decision approved by the Commission, we formally discussed the waiver of Rule 1.15 and determined that the Commission cannot waive the Rule. D.14-12-034 is unique in that the facts leading up to the Decision are similar to those presented by CforAT. In A.10-07-009, applications for rehearing were required to be filed within 30 days of the final decision. See Rule 16.1, Rules of Practice and Procedure. San</p>
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		<p>Diego Gas & Electric Company (SDG&E) encountered difficulties with the electronic filing and was not able to file before the 5:00 p.m. deadline established by Rule 1.15. The application for rehearing was received after 5:00 p.m. and the Docket Office recorded the document as filed on the following day. The application for rehearing was rejected as untimely. SDG&E challenged the rejection.</p> <p>As stated in the D.14-12-034, “SDG&E argues that because this 5:00 p.m. deadline is established by Commission Rules and not by statute, the Commission has the discretion to accept SDG&E’s Application under Rule 1.2 which allows deviations from own Rules.” D.14-12-024 at 8-9. Comments on today’s Decision attempt to make the same argument. But, as we found in D.14-12-034, “Rule 1.2 allows us to deviate from our rules in special cases and for good cause but it does not require us to do so. It is within our discretion to determine when deviation from our Rules is appropriate. The purpose of Rule 1.15 was to establish a defined cut-off time because we determined that it is important to establish a common understanding of the deadline by which an act must be performed. (Resolution ALJ-260 at 9.) We believe this is especially important with Applications for Rehearing and we will not allow deviations from this Rule. Without strict compliance we would be in the position of having to consider how late or what reasons amount to good cause, something that could lead to claims of unfair treatment or bias. Adopting a bright-line rule for the filing of applications for rehearing ensures orderly processes, alleviates unpredictability, and ensures all parties</p>
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		<p>are treated fairly and equally.” Id. at 9. Rule 1.15, and its 5:00 p.m. deadline, was adopted by the Commission in order to “to establish a common understanding of the deadline by which an act must be performed. (Resolution ALJ-260 at 9.) Although we could have adopted an 11:59 p.m. deadline for electronic filings, we did not. We also did not include a specific provision in the Rule 1.15 to allow for extensions to 11:59 p.m. for good cause for filed documents.” Id. at 8.</p> <p>The Public Utilities Code, the Commission’s Rule of Practice and Procedure, and precedent are clear. Documents filed after 5:00 p.m. on the final date for acceptance are deemed as filed on the following day. As it applies to claims for intervenor compensation, if a request for compensation is not filed within 60 days of the issuance of a final decision or order closing the proceeding, the request is not timely and the intervenor is not eligible to receive compensation. Our Rules make clear that documents filed after 5:00 p.m. are deemed as having been filed on the following day.</p> <p>CforAT’s request was not timely filed. CforAT chose to wait until 37 minutes before the deadline to begin filing the request for compensation. Since the adoption of the Rule 1.15 deadline, CforAT, an experienced intervenor, has filed at least 28 claims for intervenor compensation. Here, CforAT left the filing for the last moment and failed to complete the electronic process before the deadline.</p> <p>CforAT has not shown good cause for not complying with the Commission’s Rules and has not demonstrated that a</p>
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		<p>special case presently exists, that would allow the Commission to deviate from the Rules. Our adoption of a bright-line rule ensures that all parties to Commission proceedings are treated equally and fairly. Uniform application of Rule 1.15 alleviates unpredictability within the Commission’s decisionmaking processes. For the Commission to waive the Rule for intervenors but not for utilities would be arbitrary and capricious.</p> <p>The Commission must deny Center for Accessible Technology’s request for compensation since the document was not timely filed.</p>
<p>The Utility Reform Network (TURN)</p>	<p>TURN supports the arguments made in the comments filed by CforAT. TURN notes that the Commission has recently exercised discretion and awarded compensation in instances where claims were late-filed. TURN states the Commission might be engaging in arbitrary and capricious decision-making should it adopt this Decision. Lastly, TURN believes that the Commission’s reliance on form-based intervenor compensation decisions contributed to the present decision, finding that CforAT late-filed the claim.</p>	<p><i>See Discussion, above.</i></p>

The Greenlining Institute (Greenlining)	Greenlining urges the Commission to reject a strict 5:00 p.m. deadline for the filing of requests and states that the public interest would be best served by a reasonable degree of discretion. Greenlining notes that the denial of funds could have negative impacts on CforAT's operations. Greenlining notes that the Commission does not normally meet the 75-day timeline for issuing decisions on claims, which skews against intervenors and defeats public participation. Greenlining states intervenors are harmed by having to wait to receive compensation.	<i>See Discussion, above.</i>
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FINDINGS OF FACT

1. Pub. Util. Code § 1804(c) requires intervenors to file requests for awards within 60 days following issuance of a fund decision.
2. CforAT filed its request for compensation more than 60 days after the issuance of D.14-08-030.
3. No hourly rates are set in today's decision.

CONCLUSION OF LAW

1. The Claim fails to satisfy all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. Center for Accessible Technology's claim for compensation for its participation in this proceeding is denied.
2. Center for Accessible Technology shall not request compensation for any work performed in this proceeding as part of a future compensation request in a different proceeding.

3. The comment period for today's decision is not waived.
This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX
Compensation Decision Summary Information

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1212011, D1408030		
Proceeding(s):	A1105017 et al.		
Author:	ALJ Kim		
Payer(s):	Pacific Gas & Electric Company, Southern California Edison Company, San Diego Gas & Electric, and Southern California Gas Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Center for Accessible Technology	10/20/2014	\$73,122.92	\$00.00	N/A	<i>Did not timely file request for compensation</i>

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Melissa	Kasnitz	Attorney	CforAT	\$430.00	2012	N/A
Melissa	Kasnitz	Attorney	CforAT	\$440.00	2013	N/A
Melissa	Kasnitz	Attorney	CforAT	\$450.00	2014	N/A

(END OF APPENDIX)