

Decision 18-11-049 November 29, 2018

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Conduct a Comprehensive Examination of the California Teleconnect Fund.

Rulemaking 13-01-010

**DECISION GRANTING INTERVENOR COMPENSATION TO CENTER FOR ACCESSIBLE TECHNOLOGY FOR SUBSTANTIAL CONTRIBUTION TO DECISION 18-01-006**

<b>Intervenor: Center for Accessible Technology</b>	<b>For contribution to Decision (D.) 18-01-006</b>
<b>Claimed: \$15,196.25</b>	<b>Awarded: \$14,286.25 (6% reduction)</b>
<b>Assigned Commissioner: Carla Peterman</b>	<b>Assigned ALJs: Sophia Park and Hazlyn Fortune</b>

**PART I: PROCEDURAL ISSUES**

<b>A. Brief description of Decision:</b>	This decision addresses implementation issues and documentation requirements for the three-year eligibility verification process adopted in Decision 15-07-007 for community-based organizations (CBOs) participating in the California Teleconnect Fund (CTF) program.
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**B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:**

	<b>Intervenor</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference (PHC):	June 19, 2013	Verified.
2. Other specified date for NOI:	30 days after the deadline for filing responsive pleadings (Rule 17.1(a)(2) of the Commission's Rules of Practice and Procedure)	Verified.
3. Date NOI filed:	April 17, 2013 See comment below	Verified. Also see the discussion on CforAT's NOI filing in D.16-03-025 at 4.
4. Was the NOI timely filed?		Yes.
<b>Showing of eligible customer status (§ 1802(b) or eligible local government entity status (§§ 1802(d), 1802.4):</b>		
5. Based on ALJ ruling issued in proceeding number:	See comment below.	Noted.
6. Date of ALJ ruling:	See comment below.	Noted.
7. Based on another CPUC determination (specify):	D.16-03-025 issued on 3/21/16. See comment below	Verified.
8. Has the Intervenor demonstrated customer status or eligible government entity status?		Yes, per D.16-03-025.
<b>Showing of "significant financial hardship" (§1802(h) or §1803.1(b))</b>		
9. Based on ALJ ruling issued in proceeding number:	See comment below	Noted.
10. Date of ALJ ruling:	See comment below	Noted.
11. Based on another CPUC determination (specify):	D.16-03-025 issued on 3/21/16. See comment below	Verified.
12. Has the Intervenor demonstrated significant financial hardship?		Yes, <i>see</i> D.16-03-025.

<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.18-01-006	Verified.
14. Date of issuance of Final Order or Decision:	January 16, 2018	Verified.
15. File date of compensation request:	March 15, 2018	Verified.
16. Was the request for compensation timely?		Yes.

**C. Additional Comments on Part I:**

<b>#</b>	<b>Intervenor’s Comment(s)</b>	<b>CPUC Discussion</b>
	CforAT was previously awarded compensation in this proceeding for our contribution to D.15-07-007, resolving Phase 1 and Phase 2. D.16-03-025. “A party found eligible for an award of compensation in one phase of a proceeding remains eligible in later phases, including any rehearing, in the same proceeding.” Rule 17.2 of the Commission’s Rules of Practice and Procedure.	Verified.

**PART II: SUBSTANTIAL CONTRIBUTION**

**A. Did the Intervenor substantially contribute to the final decision (see § 1802(j), § 1803(a), 1803.1(a) and D.98-04-059).**

<b>Intervenor’s Claimed Contribution(s)</b>	<b>Specific References to Intervenor’s Claimed Contribution(s)</b>	<b>CPUC Discussion</b>
1. CforAT (along with other parties) favored a simple application and recertification process for CBOs, along with authorization for staff to engage in audits. CforAT Reply Comments, filed on May 6, 2016 (CforAT May 2016 Comments), at p. 3.	The Final Decision “agree[s] with TURN, CforAT, CalNonprofits, and AT&T that the application and recertification process should not be overly complex or unduly burdensome for CBOs, Commission Staff, and carriers. We also agree with these parties that self-enforcing rules, when feasible, should be adopted.” Final Decision at p. 7	Verified. CforAT’s contribution to the decision on this issue was minimal. CforAT did not file Opening Comments on the Amended Scoping Memo issued on December 18, 2015. Its Reply Comments, filed on May 6, 2016,

		were minimally useful and didn't add to what other parties already said in their Opening Comments.
2. CforAT (in conjunction with TURN and other parties) commented that the requirement that 50% or more of a CBO's mission must consist of "qualifying services" is unclear. CforAT/TURN Opening Comments on PD, filed on January 3, 2018, at pp. 1-4.	The Final Decision recognizes that "additional details must be considered prior to adopting" the 50% standard. Final Decision at p. 9. The Final Decision requires a workshop to be set to consider this issue further; the workshop is currently scheduled for March 30, 2018. <i>See also</i> Final Decision at pp. 21-22 discussing party input on this issue.	Verified.
3. CforAT, in conjunction with TURN, argued that a "community" served by a CBO could be a "community of interest" rather than a geographic community. CforAT/TURN Opening Comments on PD at pp. 4-5.	The Final Decision states: "Because a CBO may also serve a community of interest (such as the disability community) rather than a geographic community, [the requirement that Board Members must be members of the community the CBO serves] is also met if the CBO demonstrates that a majority of its board members are members of the community of interest being served." Final Decision at p. 11. <i>See also</i> Final Decision at pp. 22-23, discussing party input on this issue.	Verified.
4. CforAT, in conjunction with TURN, argued that there can be forms of "minimal fees" other than use of a sliding scale that would satisfy the requirements of CBO eligibility. CforAT/TURN Opening Comments on PD at pp. 5-7.	The Final Decision expands the definition of what constitutes a "minimal fee." Final Decision at p. 12. <i>See also</i> Final Decision at p. 23, discussing party input on this issue.	Verified.
5. CforAT (along with other parties) opposed use of an "administration factor" to reduce CTF support for otherwise-eligible organizations. CforAT May 2016 Comments at pp. 1-3.	The Final Decision "agree[s] with TURN, CalNonprofits, CforAT, and AT&T that an administration factor would be burdensome to administer and is unnecessary so long as the CBO meets the relevant eligibility criteria regarding their services adopted in D.15-07-007." Final Decision at p. 15. The Final Decision further recognizes that, "as noted by CforAT, the CTF Program has never demanded that 100% of the subsidy be used for direct or indirect access." <i>Id.</i>	Verified.

<p>6. CforAT, in conjunction with TURN, addressed the issue of appropriate caps for healthcare/health services CBOs in order to reduce the risk that this category of CBOs could create a disproportionately large draw on the fund. TURN/CforAT Reply Comments, filed on June 30, 2017, at p. 5.</p>	<p>While the Final Decision declined to adopt a budget cap for the health care/health services CBO category, it did retain a revenue cap for each individual CBO, finding the “revenue cap to be more feasible to implement and administer than a budget cap.” Final Decision at pp. 18-19. The revenue cap adopted had previously been proposed by CforAT and other consumer groups. Final Decision at p. 19. <i>See also</i> Final Decision at p. 23, discussing party input on this issue.</p>	<p>Verified.</p>
<p>7. In comments on the PD, ORA requested for the first time that various Commission divisions, including but not limited to ORA, be given the authority to audit CTF participants. CforAT (along with other parties) opposed this request. CforAT/TURN Reply comments on PD, filed on January 8, 2018, at pp. 3-4.</p>	<p>The Commission did not grant ORA’s request. Final Decision at p. 24.</p>	<p>Verified.</p>

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

	<b>Intervenor’s Assertion</b>	<b>CPUC Discussion</b>
<p><b>a. Was the Office of Ratepayer Advocates a party to the proceeding?</b><sup>1</sup></p>	<p>Yes</p>	<p>Verified.</p>
<p><b>b. Were there other parties to the proceeding with positions similar to yours?</b></p>	<p>Yes</p>	<p>Verified.</p>
<p><b>c. If so, provide name of other parties:</b> CforAT’s positions were generally similar to those of TURN. On a number of issues, but not all, CforAT’s positions were also similar to those of CalNonprofits. On various issues CforAT’s position also corresponded with those of other parties, including AT&amp;T.</p>	<p>Verified.</p>	
<p><b>d. Intervenor’s claim of non-duplication:</b> Throughout Phase 3 of the proceeding, CforAT coordinated closely with TURN and also coordinated with CalNonprofits to the extent that our positions were similar. CforAT and TURN prepared various filings jointly in</p>	<p>Verified.</p>	

<sup>1</sup> The Office of Ratepayer Advocates (ORA) was renamed the Public Advocate’s Office at the California Public Utilities Commission (Cal PA), pursuant to Senate Bill No. 854, which the Governor approved on June 27, 2018.

<p>order to avoid duplication of effort; where we filed separately, we coordinated in order to ensure that our work complemented or supplemented each other rather than duplicate each other.</p>	
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**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

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

	<b><u>CPUC Discussion</u></b>
<p><b>a. Intervenor’s claim of cost reasonableness:</b>                      Due to high levels of poverty and low levels of employment, among other factors, people with disabilities are a population segment that is among the least likely to have access to high speed internet access at home or at work. Therefore CforAT’s constituency is more likely than average to rely on CBOs and other entities served by CTF to have access to advanced communications services in their local communities.</p> <p>Even as CforAT’s constituency benefits from the access offered by CTF’s recipients, few likely understand the importance of the program, and even fewer would be likely to directly participate before the Commission to address its importance.</p> <p>While it is difficult to assign a dollar figure to the value that CforAT’s constituents obtain by having access to advanced services through CTF-supported resources, there can be no doubt that this population directly benefits from the services offered by CTF recipients well beyond the cost of CforAT’s participation in this proceeding.</p>	<p>Noted.</p>
<p><b>b. Reasonableness of hours claimed:</b></p> <p>CforAT’s participation on Phase 3 Issues has been focused and constrained to issues of direct relevance to our constituency. CforAT has coordinated with other parties, including filing joint pleadings as appropriate, in order to represent the interests of our constituency efficiently.</p>	<p>Verified, but see CPUC Disallowances and Adjustments in Part III.D, Item 3.</p>
<p><b>c. Allocation of hours by issue:</b></p> <p>Given the limited total of hours claimed (spread over a number of years), CforAT has allocated all time on the merits of this portion of the proceeding simply to “Phase 3.” The totals are as follows:</p> <p>2015: 10.3 hours allocated to “Phase 3”                      2016: 4.0 hours allocated to “Phase 3”                      2017: 9.5 hours allocated to “Phase 3”                      2018: 5.2 hours allocated to “Phase 3”</p> <p>Total: 29.0 hours on Phase 3 Issues</p>	<p>Verified, but see CPUC Disallowances and Adjustments in Part III.D, Item 3 for the 2016 allocated hours.</p>

**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	2015	10.3	\$450	D15-12-046	\$7,650.00 [1]	10.3	\$450	\$4,635.00
Melissa W. Kasnitz	2016	4.0	\$455	D.16-09-033	\$2,730.00 [2]	2.0 [3]	\$455	\$910.00
Melissa W. Kasnitz	2017	9.5	\$465	D.17-11-031	\$4,417.50	9.5	\$465	\$4,417.50
Melissa W. Kasnitz	2018	5.2	\$475	Resolution ALJ-352, issued on 2/14/18, sets a COLA of 2.3% over 2017 rates.	\$2,470.00	5.2	\$475	\$2,470.00
<b>Subtotal: \$ 17,267.50</b> [4]						<b>Subtotal: \$12,432.50</b>		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Melissa W. Kasnitz	2018	6.7	\$237.50	½ requested standard rate	\$1,591.25	6.7	\$237.50	\$1,591.25
Kathryn (Kate) Woodford	2018	3.5	\$75.00	½ standard rate, adjusted per Resolution ALJ-352 for 2018.	\$262.50	3.5	\$75.00	\$262.50
<b>Subtotal: \$1,853.75</b>						<b>Subtotal: \$1,853.75</b>		
<b>TOTAL REQUEST: \$ 15,196.25</b> [5]						<b>TOTAL AWARD: \$14,286.25</b>		
<p>*We remind all intervenors that Commission staff may audit the records and books of the intervenors to the extent necessary to verify the basis for the award (§1804(d)). Intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenors' 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</p>								

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 are typically compensated at ½ of preparer’s normal hourly rate

<b>ATTORNEY INFORMATION</b>			
<b>Attorney</b>	<b>Date Admitted to CA BAR<sup>2</sup></b>	<b>Member Number</b>	<b>Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation</b>
Melissa W. Kasnitz	December, 1992	162679	No, but includes periods of inactive status prior to 1997

**C. Attachments Documenting Specific Claim and Comments on Part III (Intervenor completed; attachments not attached to final Decision):**

<b>Attachment or Comment #</b>	<b>Description/Comment</b>
1	<b>Certificate of Service</b>
2	<b>CforAT’s Detailed Time Records (including merits and time on compensation)</b>

**D. CPUC Disallowances and Adjustments:**

<b>Item</b>	<b>Reason</b>
[1]	CforAT’s claimed amount of \$7,650.00 is mathematically incorrect. The correct claimed amount should be \$4,635.00 (=10.3 x \$450).
[2]	CforAT’s claimed amount of \$2,730.00 is mathematically incorrect. The correct claimed amount should be \$1,820.00 (=4.0 x \$455).
[3]	The total hours for the preparation of CforAT’s Reply Comments filed on May 5, 2016 are reduced by 2.0 (50%) because they didn’t make a significant contribution to the final decision (See Part II.A.1).
[4]	The subtotal of \$17,267.50 is mathematically incorrect. The correct amount should be \$13,342.50.
[5]	The total requested amount of \$15,196.25 is correct; it was unaffected by the above mathematical errors in the subtotals.

<sup>2</sup> This information may be obtained through the State Bar of California’s website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch> .

**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))**

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

**FINDINGS OF FACT**

1. Center for Accessible Technology has made a substantial contribution to D.18-01-006.
2. The requested hourly rates for Center for Accessible Technology’s representatives 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 \$14,286.25.

**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 \$14,286.25.
2. Within 30 days of the effective date of this decision, the California Public Utilities Commission, Intervenor Compensation Fund 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 May 29, 2018, the 75<sup>th</sup> day after the filing of Center for Accessible Technology’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 November 29, 2018, at San Francisco, California.

MICHAEL PICKER

President

CARLA J. PETERMAN

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

Commissioners

**APPENDIX****Compensation Decision Summary Information**

<b>Compensation Decision:</b>	D1811049	<b>Modifies Decision?</b>	No
<b>Contribution Decision:</b>	D1801006		
<b>Proceeding:</b>	R1301010		
<b>Authors:</b>	ALJ Park and ALJ Fortune		
<b>Payer:</b>	California Public Utilities Commission, Intervenor Compensation Fund		

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/Disallowance</b>
Center for Accessible Technology (CforAT)	March 15, 2018	\$15,196.25	\$14,286.25	No	Non-substantial Contribution

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Melissa	Kasnitz	Attorney	CforAT	\$450	2015	\$450
Melissa	Kasnitz	Attorney	CforAT	\$455	2016	\$455
Melissa	Kasnitz	Attorney	CforAT	\$465	2017	\$465
Melissa	Kasnitz	Attorney	CforAT	\$475	2018	\$475
Kathryn (Kate)	Woodford	Analyst	CforAT	\$150	2018	\$150

**(END OF APPENDIX)**