

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission’s own motion into the operations, practices, and conduct of Pacific Bell Wireless LLC dba Cingular Wireless, U-3060, U-4135 and U-4314, and related entities (collectively "Cingular") to determine whether Cingular has violated the laws, rules and regulations of this State in its sale of cellular telephone equipment and service and its collection of an Early Termination Fee and other penalties from consumers.

Investigation 02-06-003
(Filed June 6, 2002)

**OPINION GRANTING INTERVENOR COMPENSATION
TO UTILITY CONSUMERS’ ACTION NETWORK**

Summary

This decision awards Utility Consumers’ Action Network (UCAN) \$367,401.25 in compensation for its substantial contribution to Decision (D.) 04-09-062. The award is \$16,137.50 less than UCAN’s request of \$383,538.75. We have adjusted UCAN’s hourly billings to remove time devoted to discrete undertakings that did not contribute to our decisionmaking and to remove time devoted to administrative and clerical tasks.

Background

D.04-09-062 finds that, between January 1, 2000 and May 1, 2002, Cingular Wireless (Cingular) violated Pub. Util. Code § 451¹ and other law by binding customers to fixed-term contracts that contained no trial or “grace period” and furthermore required payment of an early termination fee (ETF), ranging from \$150 to as much as \$550, for cancellation before expiration of the fixed term. Cingular’s own testimony admitted that using the phone is the best way for customers to test wireless service to ascertain whether it meets their needs—but Cingular’s corporate policy did not permit tests.

D.04-09-062 also finds that Cingular compounded its violation of law in 2001, when Cingular experienced significant network development growing pains but made no effort to disclose those problems to customers. Rather, Cingular continued to prohibit refunds and continued to require payment of ETFs for early contract cancellation. Cingular’s disclosure failures violated several statutes (§§ 451, 702 and 2896) and other law.

For these violations, D.04-09-062 orders Cingular to pay a penalty of \$12,140,000 and to reimburse customers who paid part or all of the ETF to Cingular or to one of Cingular’s agents.

The compensation pleadings filed in this proceeding consist of UCAN’s NOI and Cingular’s opposition, UCAN’s compensation request and supplement to that request, Cingular’s opposition, and UCAN’s reply.

¹ Unless otherwise indicated, all subsequent citations to sections refer to the Public Utilities Code, and all subsequent citations to rules refer to the Rules of Practice and Procedure, which are codified at Chapter 1, Division 1 of Title 20 of the California Code of Regulations.

Requirements for Awards of Compensation

The intervenor compensation program, enacted by the Legislature in §§ 1801-1812, requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation if the intervenor makes a substantial contribution to the Commission's proceedings. The statute provides that the utility may adjust its rates to collect the amount awarded from its ratepayers.

All of the following procedures and criteria must be satisfied for an intervenor to obtain a compensation award:

1. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)
2. The intervenor must satisfy certain procedural requirements including the filing of a sufficient notice of intent (NOI) to claim compensation within 30 days of the prehearing conference (or in special circumstances, at other appropriate times that we specify). (§ 1804(a).)
3. The intervenor must file and serve a request for a compensation award within 60 days of our final order or decision in a hearing or proceeding. (§ 1804(c).)
4. The intervenor must demonstrate significant financial hardship. (§ 1804(b)(1).)
5. The intervenor's presentation must have made a substantial contribution to the proceeding, through the adoption, in whole or in part, of the intervenor's contention or recommendations by a Commission order or decision. (§§ 1802(i), 1803(a).)
6. The claimed fees and costs are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services. (§ 1806.)

For discussion here, the procedural issues in Items 1-4 above are combined, followed by separate discussions on Items 5-6.

Procedural Issues

The prehearing conference in this matter was held on July 22, 2002. UCAN filed its timely NOI on July 30, 2002. On August 28, 2002, Administrative Law Judge (ALJ) Vieth issued a ruling that found UCAN to be a customer under the Public Utilities Code. UCAN filed its request for compensation on October 5, 2004, within the required 60 days of D.04-09-062. UCAN has satisfied all the first three procedural requirements necessary to make its request for compensation.

An intervenor seeking compensation must show that, without undue hardship, it cannot pay the reasonable costs of effective participation in the proceeding. In the case of groups or organizations, significant financial hardship is demonstrated by showing that the economic interest of individual members is small compared to the overall costs of effective participation. (§ 1802(g).) Such a finding is normally made in the ALJ's preliminary ruling as to whether the customer will be eligible for compensation (§ 1804(b)).

In its NOI, UCAN asserted financial hardship through a rebuttable presumption, as allowed by § 1804(b)(1), by showing a finding to meet this requirement was made in another proceeding within the last year. On August 28, 2002, ALJ Vieth ruled that UCAN met the significant financial hardship condition.

Substantial Contribution

In evaluating whether a customer made a substantial contribution to a proceeding we look at several things. First, did the ALJ or Commission adopt one or more of the factual or legal contentions, or specific policy or procedural recommendations put forward by the customer? (See §1802(i).) Second, if the

customer's contentions or recommendations paralleled those of another party, did the customer's participation materially supplement, complement, or contribute to the presentation of the other party or to the development of a fuller record that assisted the Commission in making its decision? (See §§ 1802(i) and 1802.5.) As described in §1802(i), the assessment of whether the customer made a substantial contribution requires the exercise of judgment.

In assessing whether the customer meets this standard, the Commission typically reviews the record, composed in part of pleadings of the customer and, in litigated matters, the hearing transcripts, and compares it to the findings, conclusions, and orders in the decision to which the customer asserts it contributed. It is then a matter of judgment as to whether the customer's presentation substantially assisted the Commission.²

UCAN's case at hearing focused on alleged violations of the Public Utilities Code, rather than the charges based on statutes found in other codes. In fact, UCAN's briefs were structured to very clearly link alleged violations of the Public Utilities Code with the evidence that, UCAN contended, proved those violations. In a similar fashion, UCAN's request systematically lists all but two of the 19 findings in D.04-09-062 and then ties each of these findings to evidence it adduced or co-sponsored and to argument laid out in its briefs.

As UCAN points out, its contributions on other matters are memorialized in the joint Assigned Commissioner/ALJ ruling on the confidentiality of exhibits, which confirms UCAN's legal analysis, as well as in D.04-09-062, which quotes approvingly from UCAN's response to Cingular's appeal of the presiding

² D.98-04-059, 79 CPUC2d, 628 at 653.

officer's decision. D.04-09-062 also adopts certain language that UCAN urged to make the reparations discussion (and associated ordering paragraph) more precise. While UCAN (and Commission staff) did not prevail in their contention that Cingular's advertising was misleading, the record development on this issue benefited the Commission's decisionmaking. D.04-09-062 states: "[w]e think the evidence as a whole militates for clearer, more accurate customer disclosure on a prospective basis." (D.04-09-062, slip op., p. 55.)

However, we agree with Cingular that UCAN should not be compensated with regard to two matters that resulted in the striking of portions of prepared testimony offered by Beebe and Shames. The first of these concerned two related motions Cingular filed to compel the release of the undisclosed names of some of UCAN's complainants and, subsequently, to strike related portions of Beebe's prepared initial testimony. The second concerned Cingular's motion to strike Shames' rebuttal testimony.

With these exceptions, we find that UCAN's participation provided an overall benefit to the Commission's decisionmaking and made a substantial contribution to D.04-09-062.

Reasonableness of Requested Compensation Summary of Compensation

UCAN requests \$383,538.75³ for its participation in this proceeding, as follows:

Attorney and

Paralegal Fees

Michael Shames	2002	165.5 hours @ \$220/hour	\$ 36,410.00
	2002 – ½ rate	9 hours @ \$110/hour	\$ 990.00
	2003	457.7 hours @ \$250/hour	\$114,425.00
	2003 – ½ rate	56 hours @ \$125/hour	\$ 7,000.00
	2004	40.3 hours @ \$250/hour	\$ 10,075.00
	2004 – ½ rate	18.5 hours @ \$125/hour	\$ 2,312.00
Lee Biddle	2002	405.3 hours @ \$150/hour	\$ 60,795.00
	2003	717 hours @ \$170/hour	\$121,890.00
	2003 – ½ rate	35.2 hours @ \$75/hour	\$ 2,992.50
	2004	22.7 hours @ \$185/hour	\$ 4,199.50
	2004 – ½ rate	24.5 hours @ \$92.5/hour	\$ 2,266.25
Jordana Beebe	all years	66 hours @ \$75/hour	\$ 4,950.00
	all years – ½ rate	7 hours @ \$37.50/hour	\$ 262.50
	rate		
Christina Mittendorf	all years	40 hours @ \$75/hour	\$ 3,000.00
		Fees subtotal	\$370,735.25

Expenses

Robert Zicker, retainer	2002	Expert Witness/ Consultation Fees subtotal	\$ 5,000.00
Photocopying			\$ 1,084.00
Postage			\$ 213.00
Telephone/Teleconferencing changes			\$ 102.00
		Misc Business Expenses subtotal	\$ 1,399.00

³ This is the amount of the revised request, as documented in the supplement filed on November 2, 2004 and the reply filed on November 10, 2004.

Airfare (Shames and Biddle)		\$ 2,498.00
Van and Taxi costs		\$ 454.00
Airport parking costs		\$ 370.00
Per diem (Shames and Biddle)		<u>\$ 2,250.00</u>
	Misc Travel Expenses subtotal	\$ 5,572.00
	<u>TOTAL</u>	<u>\$383,538.75</u>

The components of this request must constitute reasonable fees and costs when compared to market rates for similar services from comparably qualified persons. Thus, only those fees and costs associated with the customer's work that the Commission concludes made a substantial contribution are reasonable and eligible for compensation.

To assist us in determining the reasonableness of the requested compensation, D.98-04-059 directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. The costs of a customer's participation should bear a reasonable relationship to the benefits realized through their participation. This showing assists us in determining the overall reasonableness of the request. We have recognized that some proceedings lend themselves to this kind of quantification, while in others, quantification of benefits is more difficult. UCAN does not refer to this productivity requirement directly, but the extent of customer reparations ordered and the substantial penalty (\$12,140,000) provide perspective on the import of this proceeding.

While UCAN does allocate its costs and fees across three issue categories (consumer experience issues, technical network issues, general legal), Cingular argues UCAN should have keyed the reporting of its time and expenses to specific substantive issues. Cingular argues we should require UCAN to

supplement its request with a refined assessment of its productivity. Cingular is correct that we generally prefer a more issue-specific identification of an intervenor's effort and UCAN could have prepared one. However, we decline to require the supplement since, given the interrelationship of many of the substantive issues and the general usefulness of UCAN's effort, we find it unnecessary to make any broad disallowances.

Finally, we note that the ALJ's NOI ruling directed UCAN to ensure segregation of the litigation costs for this proceeding from the costs associated with a contemporaneous civil court class action and to reasonably apportion any joint costs. UCAN states that it has done so, adding: "Since UCAN's civil litigation has been stayed by the court during virtually the entire time of this Commission proceeding, work on the civil case has proven to be almost entirely on procedural matters and has been done by UCAN's outside attorney ... [t]he work in this compensation request is entirely attributable to the Commission case." (Request, p. 13.)

Hours and Rates; Miscellaneous Expenses

UCAN's request acknowledges that its total compensation claim is more than double its NOI estimate of \$148,000 and, furthermore, exceeds any other intervenor compensation request UCAN has filed at the Commission. UCAN states that this claim is reasonable, nonetheless, considering how contentious this proceeding proved to be and the extended timeline for resolving it. The record reflects, indeed, an unusually large number of law and motion filings concerning discovery disputes and disagreements about whether various documents should be afforded confidential status. Evidentiary hearing was reset several times; following submission of the proceeding, an extended timeline proved necessary to accommodate oral argument in November 2003 (two months after the

presiding officer's decision issued), comment on a Commissioner's alternate decision released in August 2004, and mediated settlement negotiations (which failed) in the last weeks prior to issuance of D.04-09-062.

UCAN states that it made a concerted effort to provide an independent contribution to the proceeding and to ensure that its participation complemented or supplemented Commission staff's participation. Though UCAN's concerns were more narrowly focused than staff's, the parties adopted a team approach that enabled them to share work on key issues throughout the proceeding, including the discovery stage. UCAN's request includes the declaration of CPSD's counsel, Chris Witteman, attesting that "UCAN's assistance was vital ..." to the successful litigation of this proceeding. (Request, Attachment A, paragraph 10.)

UCAN clarifies that it has not billed for time spent developing the "dead zone" data base it offered in evidence in this proceeding, time spent by college students serving as legal interns, or costs for two wireless experts who served in an advisory capacity and did not provide expert testimony. UCAN has documented its claimed hours by presenting a daily breakdown of the hours billed by its attorneys and paralegals, accompanied by a brief description of the work performed.

After reviewing these records, we make the following adjustments:

- We disallow approximately one third of the time devoted to development of the reply testimony of Michael Shames (Ex. 202), since the ALJ ordered certain revisions to the attachments prior to hearing and struck approximately one third of the text at hearing (23 of 58 pages). We find that this adjustment is more reasonable than the 50% reduction Cingular contends we should make. Accordingly, we reduce the claimed hours for Shames (by 19.3 hours in 2003) and Biddle (by 11.3 in 2002, 8.9 hours in 2003).

- We adjust Biddle's hours to remove 6.5 hours for time billed in 2003 for printing, copying or collating documents, which are administrative tasks. Costs for administrative overhead of this kind are built into the fees of professionals and consultants.⁴ This figure is estimated, in part, since the time devoted to some of these tasks was not broken out separately but combined with the time devoted to other, reimbursable tasks.
- We disallow time UCAN spent opposing two, related motions filed by Cingular. UCAN's position did not prevail and its effort did not advance our decisionmaking in any way. One is the December 9, 2002 motion to compel the public release of the names of complainants on whom Beebe's initial prepared testimony relied; the second is the January 15, 2003 motion to strike portions of Beebe's initial prepared testimony. The corresponding disallowances, based on UCAN's billing records, reduce time for Shames (by 4.5 hours in 2002 and 4.5 hours in 2003), Biddle (by 6 hours in 2002 and 18.1 hours in 2003) and Beebe (1 hour).

UCAN has separately identified, tallied, and requested one half the claimed professional rate for all time spent on travel and on preparation of compensation related documents. This time includes the 15.5 hours that UCAN billed for preparation of its compensation request in this complex proceeding.

Finally, in determining compensation, we take into consideration the market rates for similar services from comparably qualified persons. UCAN seeks the same hourly rates for attorneys Shames and Biddle that we approved in D.04-09-024: for Shames, \$220 per hour for work done in 2002 and \$250 for 2003-2004; for Biddle, \$150 per hour for work done in 2002, \$170 for 2003 and \$185 for 2004. Those rates are reasonable here.

⁴ D.00-02-044, slip op., p. 41.

UCAN seeks \$75 per hour for paralegal work done by Beebe and by Mittendorf, and for Beebe's time as a witness. We previously awarded that rate for Beebe's work (in D.02-11-020 and D.03-01-070) and find it reasonable to do so here. UCAN has not requested compensation for Mittendorf in the past. Mittendorf's resume, attached to UCAN's request, compares reasonably with the qualifications of other paralegals for whom we have approved compensation levels at the lower end of an established range. In D.04-08-025, for example, we approved awards between \$75 to \$135 for work done in 2003. The requested rate for Mittendorf is reasonable for the 40 hours she logged from 2002-2003.

UCAN also requests reimbursement for the \$5,000 retainer it provided in August 2002 to Robert Zicker, a radio engineering expert, so that he could begin case preparation. At that time, budgetary problems prevented Commission staff from obtaining the necessary funds. Though staff paid the rest of Zicker's contract, through this payment UCAN shared in sponsoring Zicker's testimony. Coordination of this nature between two parties with closely aligned interests makes sense because it avoids unnecessary duplication of effort. We note that UCAN does not seek reimbursement for any other engineering expert, and we authorize the reimbursement.

The bulk of UCAN's remaining expenses comprise \$5,572 incurred for travel between San Diego and San Francisco, together with associated expenses. The sum includes airfare, airport parking, and taxi costs, as well as hotel accommodations and per diem for Shames (12 nights) or Biddle (3 nights) when one or the other of them was required to remain overnight in San Francisco during the course of this litigation. UCAN has provided the dates for each of these stays. These costs are reasonable, given the circumstances, and we approve recovery. The rest of UCAN's expenses, \$1,399, consist of documented

photocopying charges (13,550 pages @ \$.08/page) and other routine business expenses, which we find reasonable.

Award

As set forth in the table below, we award UCAN \$367,401.25.

Attorney and

Paralegal Fees

Michael Shames	2002	161 hours @ \$220/hour	\$ 35,420.00
	2002 – ½ rate	9 hours @ \$110/hour	\$ 990.00
	2003	433.9 hours @ \$250/hour	\$108,475.00
	2003 – ½ rate	56 hours @ \$125/hour	\$ 7,000.00
	2004	40.3 hours @ \$250/hour	\$ 10,075.00
	2004 – ½ rate	18.5 hours @ \$125/hour	\$ 2,312.00
Lee Biddle	2002	388 hours @ \$150/hour	\$ 58,200.00
	2003	683.5 hours @ \$170/hour	\$116,195.00
	2003 – ½ rate	35.2 hours @ \$75/hour	\$ 2,992.50
	2004	22.7 hours @ \$185/hour	\$ 4,199.50
Jordana Beebe	2004 – ½ rate	15.5 hours @ \$92.5/hour	\$ 1,433.75
	2002-03	65 hours @ \$75/hour	\$ 4,875.00
	2002-03 – ½ rate	7 hours @ \$37.50/hour	\$ 262.50
Christina Mittendorf	2002-03	40 hours @ \$75/hour	\$ 3,000.00
		Fees subtotal	\$ 355,430.25

Expenses

Robert Zicker, retainer	2002	Expert Witness/ Consultation Fees subtotal	\$ 5,000.00
		Misc Business Expenses subtotal	\$ 1,399.00
		Misc Travel Expenses subtotal	\$ 5,572.00
		<u>TOTAL</u>	<u>\$ 367,401.25</u>

Consistent with previous Commission decisions, we will order that interest be paid on the award amount (at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15)

commencing the 75th day after UCAN filed the supplement to its compensation request and continuing until full payment of the award is made.

The award is to be paid by Cingular, the regulated entity in this proceeding. We reject Cingular's arguments that requiring it to pay an intervenor compensation award is both (1) impermissible rate regulation and (2) discriminatory. In its opposition to UCAN's NOI, Cingular presented the first argument in the context of D.98-04-059, contending that D.98-04-059 did not decide whether the program applied to wireless carriers.⁵ The ALJ's NOI determined that Cingular was wrong:

A closer reading of D.98-04-059 makes clear that the Commission considered and decided this matter, finding that in a competitive ratemaking regime, utility management may choose whether or not to factor the costs of intervenor compensation awards into rates. (See D.98-04-059, mimeo. at 61 and Conclusions of Law 12, 17; D.98-04-059, mimeo. at 3-7 [granting ltr. rhr. and modifying D.98-04-059 on other grounds.) Cingular is a "telephone corporation" under § 234 and as a "telephone utility" under § 1801.3, is subject to the intervenor compensation provisions of § 1801 et seq. (August 28, 2002 ALJ Ruling on UCAN's Notice of Intent to Claim Compensation, pp. 5-6.)

Cingular now reshapes this argument and contends that while D.98-04-059 may apply to some classes of non-rate regulated utilities, it cannot apply to wireless carriers because ordering an intervenor compensation award is rate regulation which is banned under § 332(c)(3)(A) of the Communications Act of

⁵ D.98-04-059 issued in R.97-01-009/I.97-01-010, the Commission's most recent, major intervenor compensation proceeding.

1934 (Communications Act).⁶ Cingular argues that this matter is one of first impression for this Commission, which has not ordered a wireless carrier to pay an intervenor compensation award. Case law from as early as 1999, however, clearly recognizes that not all costs imposed on a wireless carrier by state regulatory agencies constitute rate regulation, even though the financial impact of those costs necessarily must be borne either by the utility's customers or by its shareholders.⁷ State law lends no assistance to Cingular's position, since § 1807, which Cingular also cites, simply requires the Commission to allow rate regulated utilities to recover intervenor compensation awards in their rates.

Cingular's discrimination argument fares no better. Cingular claims that requiring it, alone, to fund UCAN's intervenor compensation award violates the "competitively neutral" requirements of § 253(b) of the Communications Act.⁸

⁶ Section 332(c)(3)(A) of the Communications Act, as amended by the Omnibus Budget Reconciliation Act of 1993, provides:

[N]o states or local government shall have any authority to regulate the entry of the rates charged by any commercial mobile service or any private mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of the service. (47 U.S.C. § 332(c)(3)(A).)

⁷ See *Cellular Telecommunications Indus. Ass'n v. F.C.C* 168 F 3d 1332, 1335 (D.C. Cir. 1999) ["To equate state action that may increase the cost of doing business with rate regulation would, the [Federal Communications] Commission reasonably concluded, forbid nearly all forms of state regulation, a result at odds with the "other terms and conditions" portion of [47 U.S.C. 332]"]. See also *State of Iowa v. United States Cellular Corp*, 2000 WL 33915909 *5 (SD. Iowa 200) ["If 'rate' included any action that indirectly induced rate increases, the exception would be swallowed by the rule. This could not have been Congress' intent"].

⁸ Section 253(b) of the Communications Act provides:

Nothing in this section shall affect the ability of a State to impose on a competitively neutral basis and consistent with Section 254, requirements

Footnote continued on next page

Cingular contrasts this alleged inequity with quasi-legislative proceedings which apply to an entire utility industry and where utilities collectively share responsibility for any intervenor compensation awards. UCAN aptly summarizes this position:

In short, Cingular contends that its competitors should have to bear additional costs because of Cingular's misdeeds. The logic of such an argument does not even reach first base. Legislature and the Commission have created a perfectly reasonable and competitively neutral system where costs for generally applicable proceedings are allocated generally, and costs for enforcement actions against specific companies are allocated to that company, if liability is found. (UCAN reply, p. 3.)

We remind UCAN that Commission staff may audit its records related to this award. Intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. These records should identify, for example, specific issues for which compensation was requested, the actual time spent by each employee, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation was claimed.

Waiver of Comment Period

This is an intervenor compensation matter. Accordingly, as provided by Rule 77.7(f)(6), we waive the otherwise applicable 30-day comment period for this decision.

necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services and safeguard the rights of consumers. (47 U.S.C. §253(b).)

Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Jean Vieth is the assigned ALJ in this proceeding.

Findings of Fact

1. UCAN represents residential consumers, customers, or subscribers of Cingular, predominantly in southern California.
2. UCAN timely filed its NOI to claim compensation on July 30, 2002, its request for compensation on October 5, 2004, and its supplement to the request on November 2, 2004.
3. UCAN's participation made a substantial contribution to D.04-09-062.
4. The reasonable hourly rate for UCAN's paralegal Mittendorf, when compared to the market rates for persons with similar training and experience, is \$75 per hour. All other attorney and paralegal fees requested have been previously authorized.
5. The total of UCAN's reasonable attorney and paralegal fees is \$355,430.25.
6. The total of the reasonable expenses claimed by UCAN is \$11,971.00.

Conclusions of Law

1. This decision addresses a request for intervenor compensation; as such, the otherwise applicable period for public review and comment on the decision may be waived pursuant to § 311(g)(3) and Rule 77.7(f)(6).
2. UCAN has fulfilled the requirements of §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for the approved fees and expenses incurred in making a substantial contribution to D.04-09-062.
3. Today's order should be made effective immediately.

O R D E R**IT IS ORDERED** that:

1. Utility Consumers' Action Network (UCAN) is awarded \$367,401.25 as compensation for its substantial contributions to Decision 04-09-062.
2. Within 30 days of the effective date of this decision, Cingular Wireless (Cingular) shall pay UCAN's award.
3. Cingular shall also pay interest on the award beginning January 16, 2005, at the rate earned on prime, three-month commercial paper as reported in

Federal Reserve Statistical Release H.15, and continuing until full payment is made.

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

This order is effective today.

Dated _____, at San Francisco, California.

Compensation Decision:	
Contribution Decision(s):	D0409062
Proceeding(s):	I0206003
Author:	ALJ Vieth
Payer(s):	Cingular Wireless

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Utility Consumers' Action Network	11/2/04	\$ 383,538.75	\$ 367,401.25	No	unproductive effort/excessive hours; administrative time not compensable

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Michael	Shames	Attorney	Utility Consumers' Action Network	\$220	2002	\$220
Michael	Shames	Attorney	Utility Consumers' Action Network	\$250	2003	\$250
Michael	Shames	Attorney	Utility Consumers' Action Network	\$250	2004	\$250
Lee	Biddle	Attorney	Utility Consumers' Action Network	\$150	2002	\$150
Lee	Biddle	Attorney	Utility Consumers' Action Network	\$170	2003	\$170
Lee	Biddle	Attorney	Utility Consumers' Action Network	\$185	2004	\$185
Jordana	Beebe	Paralegal	Utility Consumers' Action Network	\$75	2002-2003	\$75
Christina	Mittendorf	Paralegal	UCAN	\$75	2002-2003	\$75