

Decision \_\_\_\_\_

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

Order Instituting Rulemaking on the  
Commission's Own Motion to Assess and  
Revise the Regulation of  
Telecommunications Utilities.

Rulemaking 05-04-005  
(Filed April 7, 2005)

**OPINION GRANTING INTERVENOR COMPENSATION  
TO THE UTILITY REFORM NETWORK AND THE GREENLINING  
INSTITUTE FOR THEIR SUBSTANTIAL CONTRIBUTIONS TO  
DECISION 06-08-030**

**1. Summary**

This decision grants intervenor awards of \$284,157.48 to The Utility Reform Network (TURN) and \$44,562.50 to the Greenlining Institute (Greenlining). These awards are made for each intervenor's substantial contributions to Decision (D.) 06-08-030.

**2. Background**

The Commission opened Rulemaking (R.) 05-04-005 to "assess and revise the regulation of all telecommunications utilities in California except for small incumbent local exchange carriers (ILECs)." The primary goal of the proceeding was to develop a uniform regulatory framework (URF) for all telecommunications utilities, except small ILECs, to the extent that it was feasible and in the public interest. The culmination of the Commission's efforts was D.06-08-030, the URF Phase I Decision. TURN and Greenlining requested compensation awards of \$339,734.36 and \$60,698.25, respectively, for their substantial contributions to this decision.

The URF Phase I Decision is generally regarded as groundbreaking. It sets out to radically revise the way in which the four largest ILECs will be regulated in California. It accomplishes this goal by ordering the following:

- Allowing upward and downward pricing flexibility for all services, including all bundles, except for stand alone basic residential exchange service;
- Eliminating geographically averaged pricing;
- Making all tariff filings effective on one day notice except for price increases, withdrawal and grandfathering of service which will require a 30 day notice to consumers;
- Finding that the four ILECs have no significant market power in any area of the state and also finding that newer technologies such as cellular and voice-over-Internet Protocol (VOIP) serve as substitutes for basic wireline local exchange voice service;
- Eliminating all “asymmetric regulations” that disproportionately applied to ILECs;
- Proposing to automatically lift the price cap on residential basic local exchange service at the end of 2008 except in high cost areas; and
- Eliminating all monitoring reports with the expectation that some may be added back if the cost- benefit analysis justifies the requirement.

This rulemaking remains open. Phase II is set to address a number of matters that emerged from D.06-08-030. Those matters include detariffing of telephone service other than basic exchange service; the pricing of retail special access services, determination of the extent to which the Commission requires monitoring reports in addition to, or different from the reports carriers routinely

file with the Federal Communications Commission (FCC); and issues relating to the implementation of the URF Phase I Decision.<sup>1</sup>

### **3. Requirements for Awards of Compensation**

#### **3.1. Introduction**

The intervenor compensation program, established in Pub. Util. Code §§ 1801-1812,<sup>2</sup> requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation, as determined by the Commission, if the intervenor's presentation makes a substantial contribution to the Commission's decision and if participation imposes a significant financial hardship.

We thoughtfully review each intervenor's request to determine whether it complies with statutory requirements and related standards and requirements established by the Commission. We do so because the costs of compensation awards are ultimately paid by utility ratepayers. By ensuring that the requirements for awards are met, we provide assurance that ratepayers receive value for the compensation costs that they underwrite.

#### **3.2. Requirements for Intervenors**

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

1. The intervenor must satisfy certain procedural requirements including the filing of a sufficient notice of

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<sup>1</sup> For a more detailed listing of the Phase II issues, see Assigned Commissioner's Ruling and Revised Scoping Memo (Dec. 21, 2006).

<sup>2</sup> Subsequent statutory references are to the Public Utilities Code unless otherwise indicated.

- intent (NOI) to claim compensation within 30 days of the prehearing conference (PHC). (§ 1804(a).)
2. The intervenor must be a “customer,” i.e., a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction, or an authorized representative. (§ 1802(b).)
  3. The intervenor must file a request for a compensation award within 60 days of the final order or decision in a hearing or proceeding. (§ 1804(c).)
  4. The intervenor must demonstrate “significant financial hardship.” (§§ 1802(g), 1804(a)(2)(B), 1804(b)(1).)
  5. The intervenor’s presentation must have made a “substantial contribution” to the proceeding. (§ 1802(i).)
  6. The requested compensation must be reasonable. Among other things, the claimed fees and costs must be 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 are combined, followed by separate discussions of Items 5 and 6.

#### **4. Procedural Issues**

No PHC was held in this case. Instead, a workshop was convened on June 3, 2005. TURN timely filed its NOI on July 5, 2005. Greenlining filed its NOI on August 23, 2005. In their respective NOIs, TURN and Greenlining asserted financial hardship.

Each intervenor is authorized pursuant to its bylaws or articles of incorporation to represent the interests of residential or small commercial customers. We therefore find that each qualifies as a customer pursuant to § 1802(b)(1)(C).

On October 11, 2006, Administrative Law Judge (ALJ) Reed ruled that TURN and Greenlining are customers pursuant to § 1802(b)(1)(C), and met the financial hardship condition, through rebuttable presumptions of eligibility, pursuant to § 1804(b)(1).<sup>3</sup>

TURN filed its request for compensation on October 30, 2006. Greenlining filed its request on October 27, 2006. Both filed within 60 days of D.06-08-030 being issued.<sup>4</sup> In view of the above, we affirm the ALJ's ruling and find that TURN and Greenlining have satisfied all the procedural requirements necessary to make their requests for compensation in this proceeding. We now separately address each intervenor's showing regarding substantial contribution and the reasonableness of its request.

## **5. Substantial Contribution**

In evaluating whether a customer made a substantial contribution to a proceeding, we look at several things. First, we consider whether the Commission adopted 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, we consider whether the customer's participation materially supplemented, complemented, or contributed to the presentation of

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<sup>3</sup> TURN met this requirement in another proceeding within one year of the commencement of this proceeding (ALJ Ruling dated July 24, 2004, in Rulemaking 04-04-003). Greenlining met this requirement in another proceeding within one year of the commencement of this proceeding (ALJ Ruling dated April 8, 2005, in Application 04-12-014).

<sup>4</sup> No party opposes the requests.

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.

Should the Commission not adopt any of the customer's recommendations, it may still award compensation if the customer's participation substantially contributed to the decision or order in other ways.

With this context in mind, we consider the contributions of each intervenor.

### **5.1. TURN**

TURN's request sets forth the following contributions:

Beginning in May 2005, TURN's participation was vigorous: it filed comments "at every single opportunity"; actively participated in all workshops and meetings; filed extensive opening and reply comments and declarations through its witness Dr. Trevor Roycroft; participated in the hearings; filed detailed opening and reply briefs and fully engaged in the comments on the proposed decision.<sup>5</sup>

TURN declares that its substantial contribution to D.06-08-030 can be found in many elements of the URF Phase I Decision. In fact, its advocacy substantially contributed to the process and procedures followed in this proceeding. For example, TURN strongly advocated for a clarified and revised scoping memo in light of deficiencies it identified in the Order Instituting Rulemaking (OIR). TURN filed an initial pleading pointing out the lack of clarity in the OIR, proposed numerous points to the ALJ in an informal email, and

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<sup>5</sup> TURN Compensation Request at p. 7.

actively participated in the June 2005 workshop to discuss the scope of the proceeding.<sup>6</sup> Consequently, the Scoping Memo cites to TURN's work, along with DRA, as the basis for clarification of many issues, such as the treatment of service quality issues, the need to have consistent definitions for key terms, the nature of the Commission's own framework proposal, the effect of the URF proceeding on the then-pending New Regulatory Framework proceeding, and the treatment of subsidies and subsidy programs among others.<sup>7</sup>

TURN's contribution to the URF Phase I Decision can also be found on substantive issues. The decision cites to TURN's concerns regarding the initial proposal to allow a carrier's advice letter withdrawing or grandfathering service to become effective on one day's notice with only a 25 day notice period to the affected consumers. Although the Commission did not specifically adopt TURN's proposal on this matter, it took TURN's expressed concerns and acknowledged that the proposals made by the carriers would be insufficient to protect consumers. D.06-08-030 extended the notice period requirements and states,

TURN reminds the Commission that [the Commission] has previously affirmed that adequate notice to consumers, specifically with regards to withdrawal of service and rate increases is a crucial consumer protection.<sup>8</sup>

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<sup>6</sup> Motion for Change of Schedule was filed with other parties representing consumer and competitive interests (May 13, 2005).

<sup>7</sup> R.05-04-005, Revised Scoping Memo, Aug. 4, 2005 at pp. 4-6.

<sup>8</sup> D.06-08-030 at p. 199.

Another specific area where TURN raised questions about the Commission's initial proposal was the determination to eliminate all existing ILEC monitoring reports. TURN pointed out that the Proposed Decision did not clearly reflect the Commission's intent regarding the scope of the monitoring report issues to be addressed in Phase II.<sup>9</sup> In the URF Phase I Decision, the Commission made the requested clarification that Phase II would cover more than just monitoring related to disability issues. Although the decision sets forth a general reliance on Automated Reporting Management Information System (ARMIS) data to perform limited monitoring functions, TURN persuaded the Commission to consider enhancing the monitoring function in Phase II of the proceeding. Despite the strong urging of the carriers to eliminate all monitoring going forward, the Commission pledged to "remain vigilant in monitoring the voice communications marketplace."<sup>10</sup> While the Commission did not fully adopt TURN's position, it did acknowledge its influence, stating:

Yet the points raised by DisabRA and TURN - i.e., better information on competition and on the effects Californians with disabilities can be useful to the Commission - are well taken. Thus, we clarify that Phase II should determine what information and what reports can best meet the Commission needs in the new competitive environment.<sup>11</sup>

TURN's influence was also evident in the safeguards adopted in the URF Phase I Decision, specifically, the price cap for basic residential service. The

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<sup>9</sup> TURN's Opening Comments on the Proposed Decision at p. 22 (Aug. 15, 2006).

<sup>10</sup> D.06-08-030 at p. 156.

<sup>11</sup> *Id.* at p. 218.

Commission adopted a price cap which parallels, but does not match, TURN's proposal. While TURN advocated for a three-year cap for basic residential service and related services, the Commission adopted a 2.5-year cap on basic residential service. Both note that the intervening time will be significant to allow the market to settle while protecting consumers of the most basic services.

Finally, TURN was among a handful of parties that strongly urged that hearings be held in this proceeding. The limited hearings focused on the level of competition and market power, two issues that TURN emphasized in its presentation during the September 2005 workshop. TURN acknowledges that the Commission's final decision did not adopt its recommendations. However, it believes that it made a substantial contribution through the comprehensive presentation of issues that significantly assisted the Commission in the making of D.06-08-030.

We agree that TURN made a substantial contribution in this proceeding. To the benefit of all, TURN was particularly tenacious in getting the issues of the proceeding focused and clarified. From the start, TURN participated fully in every round of comments, workshops, hearings, and briefings. TURN's work was thorough and high-quality. Considering the unique circumstances of this proceeding, the complexity of the issues, and the importance to ratepayers, we conclude that TURN made a substantial contribution to D.06-08-030 through ensuring that the needs of low-income consumers or those who choose to limit their spending on telecommunications services are weighed and considered.

## **5.2. Greenlining**

Greenlining maintains that it made a "substantial contribution" to D.06-08-030 as defined by Pub. Util. Code § 1802(h). It filed pleadings at all stages of the proceeding, including reply comments, opening and reply briefs,

request for hearings, and more. Greenlining contends that its role in the proceeding was to protect and promote the interests of low-income and minority consumers, who would otherwise be unrepresented or underrepresented before the Commission.

Greenlining notes that a number of its recommendations, while not adopted, were considered throughout D.06-08-030. For example, the decision referred to Greenlining's attending to the needs of low-income, small business, and limited Spanish speakers, and its competition analysis.<sup>12</sup> The URF Phase I Decision also cited Greenlining's illumination of the dual role of wireless technology for low-income consumers and the need to avert forced substitution to insure the safety and technologic inclusion of low-income consumers,<sup>13</sup> as well as other concerns.<sup>14</sup> Greenlining points out that substantial contribution includes evidence or argument that supports part of the decision even if the Commission does not adopt a party's position in total.<sup>15</sup> It further maintains that its recommendations to the final decision were beneficial to the Commission.<sup>16</sup> We find that Greenlining's participation in this proceeding constituted a substantial contribution to D.06-08-030.

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<sup>12</sup> D.06-08-030 at pp. 72-73.

<sup>13</sup> *Id.* at pp. 99-100.

<sup>14</sup> *See Id.* at pp. 116, 194, and 250.

<sup>15</sup> *See Opinion on Request for Intervenor Compensation*, D.02-07-030 *mimeo.* at p. 9.

<sup>16</sup> *See Opinion Granting Intervenor Compensation to Aglet Consumer Alliance, California Hydropower Reform Coalition, Consumers Union of U.S., Inc., Greenlining Institute, and The Utility Reform Network for Substantial Contributions to Decision 03-12-035*, D.04-08-025, *mimeo.* at p. 10.

## 6. Reasonableness of Requested Compensation

After we have determined the scope of a customer's substantial contribution, we look at whether the compensation requested is reasonable. The tables below summarize the request of each intervenor for their respective participation in this proceeding.

TURN requests \$339,540.99, as follows:

| Advocate                 | Year | Hours  | Rate  | Amount              |
|--------------------------|------|--------|-------|---------------------|
| Costa                    | 2005 | 372    | \$230 | \$ 85,560.00        |
| Costa                    | 2006 | 283.75 | \$240 | \$ 68,100.00        |
| Costa (comp. request)    | 2006 | 5.0    | \$120 | \$ 600.00           |
| Nusbaum                  | 2005 | 2.25   | \$365 | \$ 821.25           |
| Finkelstein              | 2005 | 6.75   | \$395 | \$ 2,666.25         |
| Finkelstein              | 2006 | 4.25   | \$410 | \$ 1,742.50         |
| Mailloux                 | 2005 | 119.25 | \$325 | \$ 38,756.25        |
| Mailloux                 | 2006 | 82.0   | \$340 | \$ 27,880.00        |
| Mailloux (comp. request) | 2006 | 27.75  | \$170 | \$ 4,717.50         |
| Roycroft                 | 2005 | 284.0  | \$200 | \$ 56,800.00        |
| Roycroft                 | 2006 | 125.5  | \$200 | \$ 25,100.00        |
| Bowen                    | 2006 | 56.6   | \$395 | \$ 22,357.00        |
| <b>Subtotal</b>          |      |        |       | <b>\$335,100.75</b> |
| Photocopies              |      |        |       | \$ 1,907.57         |
| FedEx                    |      |        |       | \$ 23.63            |
| Phone                    |      |        |       | \$ 336.78           |
| Lexis research           |      |        |       | \$ 111.28           |
| Attorney travel          |      |        |       | \$ 647.51           |
| Witness travel           |      |        |       | \$ 1,606.84         |
| <b>Subtotal</b>          |      |        |       | <b>\$ 4,633.61</b>  |
| <b>TOTAL</b>             |      |        |       | <b>\$339,734.36</b> |

Greenlining requests \$60,698.25, as follows:

| <b>Advocate</b> | <b>Year</b> | <b>Hours</b> | <b>Rate</b> | <b>Amount</b>      |
|-----------------|-------------|--------------|-------------|--------------------|
| Gnaizda         | 2005        | 8.10         | \$490.00    | \$ 3,969.00        |
| Gnaizda         | 2006        | 32.90        | \$505.00    | \$ 16,614.50       |
| Camarena        | 2006        | 64.65        | \$325.00    | \$ 20,198.75       |
| Vaeth           | 2005        | 7.50         | \$180.00    | \$ 1,350.00        |
| Palpallatoc     | 2005        | 66.25        | \$150.00    | \$ 9,937.50        |
| Gonzalez        | 2006        | 36.50        | \$125.00    | \$ 4,562.50        |
| Phillips        | 2006        | 11.00        | \$360.00    | \$ 3,960.00        |
| <b>Subtotal</b> |             |              |             | <b>\$60,592.25</b> |
| Photocopies     |             |              |             | \$ 86.50           |
| Postage         |             |              |             | \$ 19.50           |
| <b>Subtotal</b> |             |              |             | <b>\$ 106.00</b>   |
| <b>TOTAL</b>    |             |              |             | <b>\$60,698.25</b> |

In general, the components of this request must constitute reasonable fees and costs of the customer's preparation for and participation in a proceeding that resulted in a substantial contribution. The issues that we consider to determine reasonableness are discussed below.

### **6.1. Hours and Costs Related to and Necessary for Substantial Contribution**

To assess the reasonableness of the hours claimed for the customer's efforts that resulted in substantial contributions to Commission decisions, we analyze to what degree the hours are related to the work performed and necessary for the substantial contribution.

#### **6.1.1. TURN**

TURN documented its claimed hours by presenting a daily breakdown of the hours of its attorneys, accompanied by a brief description of each activity. TURN advises that it coordinated its efforts with other intervenors to minimize duplication of effort. The hourly breakdown reasonably supports the claim for total hours. In its request, TURN concedes that the URF Phase I Decision rejected most of its recommendations. Thus, while we acknowledge TURN's high quality

work, we still must assess that work's actual substantial contribution to the Commission's Decision. In D.06-09-008,<sup>17</sup> we met a similar challenge by exercising our judgment and reducing TURN's lead attorney's total hours by 25%. We believe that this approach is also appropriate in this proceeding.

TURN also seeks compensation for "attorney travel," which represents the air fare, hotel, meal and parking expenses associated with TURN's attorney attending Commissioner Grueneich's all-party meeting in 2006 and the workshop held in 2005.<sup>18</sup> The Commission reimburses the reasonable costs of necessary travel. It does not reimburse the costs of an employee's commute to and from the Bay Area, which is TURN's place of business and the location of the Commission's main offices. Law firms and consulting firms do not bill their clients for such routine commuting costs. We will continue to reimburse travel costs associated with witnesses and advocates who have special expertise and live out of the area. We will also continue to reimburse the costs of travel to and from our hearings and workshops which are conducted outside of the Bay Area. However, we disallow all expenses for Mailloux's travel from her home in San Diego to San Francisco.

### **6.1.2. Greenlining**

Greenlining supported its compensation request with eight pages of summaries briefly listing the dates, hours, and activities of its advocates over the

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<sup>17</sup> The decision compensating intervenors of the Verizon MCI Merger Decision.

<sup>18</sup> The expenses for Ms. Mailloux's travel to attend the Grueneich all-party meeting are split 50% with another meeting that required travel for the same time frame. TURN Compensation Request at p. 31, fn. 42.

time period at issue. Greenlining distinguishes its contributions from those made by other intervenors. It asserts that it was unique in that it was the only intervenor or party that participated throughout the proceeding representing multiethnic, low income, limited English speaking and recently immigrated ratepayers.

Greenlining maintains that while the Commission did not adopt its recommendations, the Commission and the decision benefited from Greenlining's participation. As above with TURN, we believe that reducing the lead attorney's total hours by 25% is an appropriate way to acknowledge Greenlining's work while measuring and evaluating its substantial contribution to the URF Phase I Decision.

While discussed generally, 2.5 of Vaeth's 7.5 hours are for the writing and filing of compensation-related documents, and are compensated at ½ Vaeth's 2005 hourly rate.

Greenlining seeks 36.5 hours for Gonzalez, a paralegal new to our proceedings. The documentation<sup>19</sup> substantiating Gonzalez's claimed hours detail work on a survey that is not mentioned in Greenlining's compensation request or the URF Phase I Decision. We must disallow these hours because they do not support any tangible product of the proceeding or decision.

## **6.2. Hourly Rates**

We next consider whether the claimed fees and costs are comparable to the market rates paid to experts and advocates having comparable training and

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<sup>19</sup> Exhibit E of Greenlining's Request for Compensation (Oct. 27, 2006).

experience and offering similar services. In D.05-11-031, we established guidelines and principles for setting intervenors' hourly rates for work performed in 2005. That decision also set forth a range of rates for attorneys and experts based on levels of experience.

### **6.2.1. TURN**

TURN seeks hourly rates for 2005 of \$230 for expert Costa, \$325 for attorney Mailloux, and \$395 for attorney Finkelstein. We previously approved these rates in D.06-10-043, and we adopt them here.

TURN seeks a 4% hourly rate increase for these three persons for work performed in 2006. We decline to adopt the 4% increase sought by TURN. Instead, consistent with the guidance in R.06-08-019, we adopt an hourly rate of \$235 for Costa for 2006, \$335 for Mailloux for 2006, and \$405 for Finkelstein for 2006, which represents an increase of 3% over the 2005 rate, rounded to the nearest \$5.

TURN seeks an hourly rate of \$365 for work performed by William Nusbaum in 2005. We previously approved this rate in D.06-04-036 and adopt it here.

TURN seeks an hourly rate of \$200 for work performed in 2005 and 2006 by expert Roycroft, currently an "expert lecturer" for the Graduate School of Engineering at Northeastern University in Boston. Roycroft charged TURN \$200/hour for his work during this period. In D.05-11-031, we set forth guidelines for setting 2005 rates for representatives, whose last authorized rate was for work done before 2004, allowing for annual increases of 3% from the last authorized rate. Considering the 3% annual escalation factor from D.05-11-031, we adopted 2005 rates of \$155 for Roycroft for work performed in D.06-09-008.

TURN asks the Commission to reconsider Roycroft's 2005 hourly rate citing the third<sup>20</sup> of three conditions identified in D.05-11-031. We decline to do so, and adopt the 2005 hourly rate of \$155 for Roycroft for work performed in this proceeding during 2005. Consistent with the guidance in R.06-08-019, we adopt an hourly rate of \$160 for Roycroft for 2006.

Regarding attorney Bowen, TURN seeks an hourly rate of \$ 395 for work performed in 2006. In D.03-05-027, we approved an hourly rate of \$350 for Bowen for work performed in 2001. Bowen's last authorized rate was for work done before 2004. In this situation, D.05-11-031 holds an increase to be reasonable, but limits it to 3% per year. Here, a 3% increase per year from 2002 to 2006 approximates the amount requested. In accordance with D.05-11-031, we award Bowen the requested hourly rate of \$395 for work performed in 2006.

### **6.2.2. Greenlining**

Greenlining seeks an hourly rate of \$490 and \$505 for attorney Gnaizda for work performed, respectively, in 2005 and 2006; and \$325 for attorney Camarena for 2006 work. We previously approved an hourly rate of \$490 for Gnaizda for 2005 work in D.06-09-008, and we adopt it here. The \$505 hourly rate for work

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<sup>20</sup> Where a representative's last authorized rate is below that of the range of rates shown in the tables above for representatives with comparable qualifications, an increase is reasonable to bring the representatives rate to at least the bottom level of the rate range. Here, we have in mind certain representatives who have historically sought rates at or below the low end of the range of rates for their peers [footnote omitted]. We emphasize, however, that for any given level of qualifications, there will always be a range of rates in the market, so this increase is intended to narrow but not necessarily eliminate perceived disparities. *Final Decision on 2005 Rates for Intervenors' Representatives*, D.05-11-031 at pp. 17-18.

performed in 2006 is in accordance with the annual increase under R.06-08-019, and is approved for Gnaizda. In D.06-09-008, we approved an hourly rate of \$250 for Camarena; therefore, we decline to adopt the increased rate Greenlining requests. Instead, consistent with the guidance provided in R.06-08-019, we adopt an hourly rate of \$260 for Camarena for 2006, which represents an increase of 3% over the 2005 rate, rounded to the nearest \$5.

Greenlining is requesting a 2006 rate of \$180 for expert Vaeth. However, all of Vaeth's work appears to have been performed in 2005.<sup>21</sup> We previously approved a 2005 hourly rate of \$150 for Vaeth in D.06-09-008, and we adopt it here.<sup>22</sup>

Greenlining is requesting a 2005 hourly rate for paralegal Palpallatoc of \$150. We previously approved a 2005 hourly rate of \$110 for Palpallatoc in D.06-09-008, and we adopt it here. Greenlining seeks an hourly rate of \$125 for paralegal Gonzalez for work performed in 2006. Gonzalez, new to our proceedings, is a sophomore at UC Berkeley. We are disallowing the hours claimed for Gonzalez's 2006 work. Therefore, we do not adopt an hourly rate for Gonzalez in this case.

Greenlining requests a rate of \$360 for expert Phillips for 2006. We previously approved a rate of \$335 for Phillips for 2005 in D.06-09-008, and we adopt that rate here.

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<sup>21</sup> See Exhibit C of Greenlining's Request for Compensation.

<sup>22</sup> Vaeth's hourly rate is divided in half for compensation request work.

### **6.3. Productivity**

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.

Since this proceeding dealt with the revision of the telecommunications framework that the URF Phase I Decision found would bring the benefits of competition to the California consumers, it is difficult to estimate a dollar value for the work undertaken by the intervenors. In other proceedings, where dollar value was difficult to estimate, we have considered factors such as the breadth of the proceeding and the policies at issue. Here, the intervenors played crucial and consistent roles by making sure that consumer interests, particularly those of the residential, non-English speaking, small business, rural and low income consumers were reflected in the deregulation and competition considerations of the decision. Given the significance of their roles, we find the overall participation of the intervenors in this proceeding to have been productive.

### **6.4. Direct Expenses**

The itemized direct expenses submitted by intervenors include costs for travel, photocopying, postage, telephone and Lexis services.

TURN seeks \$4,633.61, most of it for photocopying and the travel costs of its expert witness. With the exception of \$647.51 in attorney travel expenses, which we have disallowed and discussed above, we find the remainder of \$3,986.10 in direct expenses to be reasonable considering the extent of work TURN undertook in the proceeding.

Greenlining requests \$106.00 for copying and postage. This is reasonable and we approve it.

## 7. Total Awards

As set forth in the tables below, we award intervenor compensation as follows:

### TURN

| Advocate                 | Year | Hours  | Rate    | Amount              |
|--------------------------|------|--------|---------|---------------------|
| Costa                    | 2005 | 372    | \$230   | \$ 85,560.00        |
| Costa                    | 2006 | 283.75 | \$235   | \$ 68,100.00        |
| Costa (comp. request)    | 2006 | 5.0    | \$117.5 | \$ 587.50           |
| Nusbaum                  | 2005 | 2.25   | \$365   | \$ 821.25           |
| Finkelstein              | 2005 | 6.75   | \$395   | \$ 2,666.25         |
| Finkelstein              | 2006 | 4.25   | \$405   | \$ 1,721.25         |
| Mailloux                 | 2005 | 89.5   | \$325   | \$ 29,087.50        |
| Mailloux                 | 2006 | 61.5   | \$335   | \$ 20,602.50        |
| Mailloux (comp. request) | 2006 | 27.75  | \$167.5 | \$ 4,648.13         |
| Roycroft                 | 2005 | 284.0  | \$155   | \$ 44,020.00        |
| Roycroft                 | 2006 | 125.5  | \$160   | \$ 20,080.00        |
| Bowen                    | 2006 | 56.6   | \$395   | \$ 22,357.00        |
| <b>Subtotal</b>          |      |        |         | <b>\$280,171.38</b> |
| Photocopies              |      |        |         | \$ 1,907.57         |
| FedEx                    |      |        |         | \$ 23.63            |
| Phone                    |      |        |         | \$ 336.78           |
| Lexis research           |      |        |         | \$ 111.28           |
| Witness travel           |      |        |         | \$ 1,606.84         |
| <b>Subtotal</b>          |      |        |         | <b>\$ 3,986.10</b>  |
| <b>TOTAL</b>             |      |        |         | <b>\$284,157.48</b> |

### Greenlining

| Advocate              | Year | Hours | Rate     | Amount             |
|-----------------------|------|-------|----------|--------------------|
| Gnaizda               | 2005 | 6.1   | \$490.00 | \$ 2,989.00        |
| Gnaizda               | 2006 | 24.7  | \$505.00 | \$12,473.50        |
| Camarena              | 2006 | 64.65 | \$260.00 | \$16,809.00        |
| Vaeth                 | 2005 | 5     | \$150.00 | \$ 750.00          |
| Vaeth (comp. request) | 2005 | 2.5   | \$ 75.00 | \$ 187.50          |
| Palpallatoc           | 2005 | 66.25 | \$110.00 | \$ 7,287.50        |
| Phillips              | 2006 | 11    | \$360.00 | \$ 3,960.00        |
| <b>Subtotal</b>       |      |       |          | <b>\$44,456.50</b> |
| Photocopies           |      |       |          | \$ 86.50           |
| Postage               |      |       |          | \$ 19.50           |

|                 |  |  |  |                    |
|-----------------|--|--|--|--------------------|
| <b>Subtotal</b> |  |  |  | <b>\$ 106.00</b>   |
| <b>TOTAL</b>    |  |  |  | <b>\$44,562.50</b> |

Consistent with previous Commission decisions, we 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 each intervenor filed its compensation request and continuing until full payment of the award is made.

In proceedings involving multiple utilities, we usually require the utilities to pay the intervenor compensation awarded based on their revenues. Consistent with this practice, Pacific Bell Telephone Company, doing business as, AT&T California, Verizon California Inc., SureWest Telephone, and Citizens Telecommunications Company of California Inc. d/b/a Frontier Communications of California shall pay the amount awarded by today's decision in proportion to their California jurisdictional revenues for 2005, the most recent calendar year for which such data are available.

We remind both intervenors that Commission staff may audit records relevant to this award, and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. The records of TURN and Greenlining should identify specific issues for which each requested compensation, the actual time spent by each employee or consultant, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation was claimed.

#### **8. Waiver of Comment Period**

This is an intervenor compensation matter. Accordingly, as provided by Rule 14.6(c)(6) of the Commission's Rules of Practice and Procedure, we waive

the otherwise applicable 30-day public review and comment period for this decision.

## **9. Assignment of Proceeding**

Rachelle B. Chong is the assigned Commissioner and Jacqueline A. Reed is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. TURN and Greenlining have met all of the procedural requirements necessary to claim compensation in this proceeding.
2. TURN made a substantial contribution to D.06-08-030, as described herein.
3. Greenlining made a substantial contribution to D.06-08-030, as described herein.
4. The total reasonable compensation for TURN is \$284,157.48.
5. The total reasonable compensation for Greenlining is \$44,562.50.
6. The appendix to this decision summarizes today's award.

### **Conclusions of Law**

1. TURN and Greenlining have fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation, and are entitled to intervenor compensation for their claimed compensation, as set forth herein, incurred in making substantial contributions to D.06-08-030.
2. TURN should be awarded \$284,157.48 and Greenlining \$44,562.50, for their substantial contributions to D.06-08-030.
3. Pursuant to Rule 14.6(c)(6) of the Commission's Rules of Practice and Procedure, the comment period for this compensation decision may be waived.
4. This order should be effective today so that TURN and Greenlining may be compensated without further delay.

**O R D E R**

**IT IS ORDERED** that:

1. The Utility Reform Network is awarded \$284,157.48 in compensation for its contribution to Decision (D.) 06-08-030.

2. Greenlining Institute is awarded \$44,562.50 in compensation for its contribution to D.06-08-030.

3. Within 30 days of the effective date of this decision, Pacific Bell Telephone Company, doing business as, AT&T California, Verizon California Inc., SureWest Telephone, and Citizens Telecommunications Company of California Inc. d/b/a Frontier Communications of California shall pay their respective shares of the award, based on the ratio of their respective California jurisdictional revenues in 2005. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release, H.15, commencing the 75th day after each intervenor filed its compensation request and continuing until full payment of the award is made.

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

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

## APPENDIX A

## Compensation Decision Summary Information

|                                  |   |                           |
|----------------------------------|---|---------------------------|
| <b>Compensation Decision:</b>    |   | <b>Modifies Decision?</b> |
| <b>Contribution Decision(s):</b> | D0608030  |                           |
| <b>Proceeding(s):</b>            | R0504005  |                           |
| <b>Author:</b>                   | ALJ Reed  |                           |
| <b>Payer(s):</b>                 | Pacific Bell Telephone Company, doing business as, AT&T California, Verizon California Inc., SureWest Telephone, and Citizens Telecommunications Company of California Inc. d/b/a Frontier Communications of California |                           |

## 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>  |
|----------------------------|-------------------|-------------------------|-----------------------|--------------------|--|
| The Utility Reform Network | 10/30/06          | \$339,734.36            | \$284,157.48          | No                 | Attorney Fees, inappropriately claimed expenses                            |
| Greenlining Institute      | 10/27/06          | \$60,698.25             | \$44,562.50           | No                 | Attorney Fees, unproductive work, intervenor compensation preparation time |

## 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> |
|-------------------|------------------|---------------|----------------------------|-----------------------------|----------------------------------|---------------------------|
| Regina            | Costa            | Policy Expert | The Utility Reform Network | \$230                       | 2005                             | \$230                     |
| Regina            | Costa            | Policy Expert | The Utility Reform Network | \$240                       | 2006                             | \$235                     |
| William           | Nusbaum          | Attorney      | The Utility Reform Network | \$365                       | 2005                             | \$365                     |
| Robert            | Finkelstein      | Attorney      | The Utility Reform Network | \$395                       | 2005                             | \$395                     |
| Robert            | Finkelstein      | Attorney      | The Utility Reform Network | \$410                       | 2006                             | \$410                     |
| Christine         | Mailloux         | Attorney      | The Utility Reform Network | \$325                       | 2005                             | \$325                     |
| Christine         | Mailloux         | Attorney      | The Utility Reform Network | \$340                       | 2006                             | \$335                     |
| Trevor            | Roycroft         | Policy Expert | The Utility Reform Network | \$200                       | 2005                             | \$155                     |
| Trevor            | Roycroft         | Policy Expert | The Utility Reform Network | \$200                       | 2006                             | \$160                     |
| Stephen           | Bowen            | Attorney      | The Utility Reform Network | \$395                       | 2006                             | \$395                     |
| Robert            | Gnaizda          | Attorney      | Greenlining Institute      | \$490                       | 2005                             | \$490                     |
| Robert            | Gnaizda          | Attorney      | Greenlining Institute      | \$505                       | 2006                             | \$505                     |
| Carrie            | Camarena         | Attorney      | Greenlining Institute      | \$325                       | 2006                             | \$260                     |
| Chris             | Vaeth            | Policy Expert | Greenlining Institute      | \$180                       | 2005                             | \$150                     |
| Pamela            | Palpallatoc      | Paralegal     | Greenlining Institute      | \$125                       | 2005                             | \$110                     |
| Monica            | Gonzalez         | Paralegal     | Greenlining Institute      | \$125                       | 2006                             | 0                         |
| Michael           | Phillips         | Policy Expert | Greenlining Institute      | \$360                       | 2006                             | \$360                     |

(END OF APPENDIX A)