

Decision 09-04-028 April 16, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Into Implementation of Federal Communications Commission Report and Order 04-87, as It Affects the Universal LifeLine Telephone Service Program.

Rulemaking 04-12-001
(Filed December 2, 2004)

**DECISION GRANTING INTERVENOR COMPENSATION TO
NATIONAL CONSUMER LAW CENTER FOR ITS SUBSTANTIAL
CONTRIBUTIONS TO D.08-08-029**

Claimant: National Consumer Law Center	For contribution to D. 08-08-029
Claimed (\$): 21,079.48	Awarded (\$): \$15,989.98 (24% reduction)
Assigned Commissioner: Dian M. Grueneich	Assigned ALJ: Karen Jones

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	In this decision, the Commission adopts a pre-qualification requirement for the California Lifeline program and resolves the remaining Lifeline Phase 2 issues.
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B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (§ 1804(a)):		
1. Date of Prehearing Conference:		None
2. Other Specified Date for NOI:	ALJ Ruling 02-14-05	Yes
3. Date NOI Filed:	02-11-05	Yes
4. Was the notice of intent timely filed?		Yes

Showing of customer or customer-related status (§ 1802(b)):		
5. Based on CPUC ruling issued in proceeding number:	R.04-12-001	Yes
6. Date of CPUC ruling:	03-08-05	Yes
7. Based on another CPUC determination (specify):		
8. Has the claimant demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.04-12-001	Yes
10. Date of ALJ ruling:	03-08-05	Yes
11. Based on another CPUC determination (specify):		
12. Has the claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision	D.08-08-029	Yes
14. Date of Issuance of Final Decision:	08-25-08	Yes
15. File date of compensation request:	10-24-08	Yes
16. Was the request for compensation timely?		Yes

PART II: SUBSTANTIAL CONTRIBUTION

A. In the fields below, describe in a concise manner Claimant’s contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059) (For each contribution, support with specific reference to final or record.)

Contribution	Citation to Decision or Record	Showing Accepted by CPUC
<p><u>Pre-qualification mitigation</u>: While NCLC as a member of the Joint Consumers, did not prevail in opposing a move to pre-qualification, we were successful in obtaining several important measures to mitigate the harm to successfully enrolled Lifeline applicants from a shift to pre-qualification. The following measures were ones Joint Consumers successfully pressed for in this docket:</p> <ol style="list-style-type: none"> 1. Mandatory payment plans for Lifeline applicants 2. Credit to Lifeline customers for the difference between Lifeline rates and charges and the regular recurring rates and non-recurring charges, as well as any deposit, back to customer’s first contact. 	<p>D.08-08-029 pp. 26-32 (Joint Consumers’ mitigation proposals for pre-qualification).</p> <p>D.08-08-029 Conclusion of Law #4, #6 and Order #5, #6 and pp. 27-29 (requires payment plans for Lifeline applicants); Findings of Fact #7 and pp., 24 and 27 (notice re payment plans).</p> <p>D.08-08-029 Conclusion of Law #5, Order #3, #4, pp. 30-32 (credit back to first contact); Findings of Fact #12, Order #3, #4, p.32 (customer choice of check or credit).</p>	<p style="text-align: center;">Yes</p>
<p><u>Income Eligibility</u>: Joint Consumers successfully opposed elimination of income eligibility, which is used by 20% of the Lifeline applicants, despite the support of that proposal by AT&T and Verizon.</p>	<p>D.08-08-029 Findings of Fact 18, Conclusion of Law 12, pp. 48-50 (preserving income eligibility).</p>	<p style="text-align: center;">Yes</p>

<p><u>Promotion of synergies with other low-income programs.</u> Joint Consumers have been long-time advocates for coordinated outreach and education with other Commission regulated low-income utility programs and the Low Income Home Energy Assistance Program (LIHEAP). Joint Consumers proposed a range of short-term and longer term measures to phase in coordinated outreach and education. Joint Consumers also pressed for a larger role for the community-based organizations in the outreach and marketing of the Lifeline program and other low-income utility assistance programs. The Commission accepted one of the short-term measures, the preparation of a brochure describing the various low-income utility assistance programs. The Commission directs the CD to look at modification of the Lifeline form to promote other low-income programs when the form is revised and efforts to increase CBO involvement in outreach and education will be facilitated by the new marketing contract. The Commission also directs the ED to open a new docket to coordinate the application process of the Commission's various low-income programs.</p>	<p>D.08-08-029 pp 53-56.</p> <p>D.08-08-029, pp. 6, 56 (role of CBOs).</p> <p>D.08-08-029 Order #11 (ED document describing the low-income programs).</p> <p>D.08-08-029, p.56 (modification of Lifeline form).</p> <p>D.08-08-029 Oder #12 (new proceeding to coordinate low-income program application process).</p>	<p>Yes</p>
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<p><u>On going measures regarding implementation of Lifeline:</u> Joint Consumers are very concerned about the disruptive effect of a move to pre-qualification and had proposed measures to ease the transition. The Joint Consumers were successful in keeping the proceeding open to address any unexpected consequences of the move to prequalification. Joint Consumers also participate in the Lifeline Implementation and Marketing Working Group calls and wanted to see this mechanism continue as an effective means to quickly address emerging implementation problems. The Commission alluded to the value of the working group in this decision. In order to help track whether certain subpopulations are having trouble enrolling in Lifeline, Joint Consumers proposed the tracking and reporting of return rates by language group and by carrier. The Commission agreed with the tracking by language.</p>	<p>D.08-08-029, pp. 2, 43 (keep proceeding open).</p> <p>D.08-08-029, pp. 3,7, 43 (working group).</p> <p>D.08-08-029, Finding of Fact 19, p. 52-53 (tracking return rates by language).</p>	<p>Yes</p>
<p><u>Web-based enrollment:</u> The Commission had asked parties on how other states use web-based systems. NCLC, as part of the Joint Consumers, researched this and provided several models in the Joint Consumers Comments. The Commission discussed the Joint Consumers models in the decision, and an interest in exploring these models. Thus the information was useful to the Commission in its deliberations.</p>	<p>D.08-08-029, pp. 44-46.</p>	<p>Yes</p>

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

	Claimant	CPUC Verified
a. Was DRA a party to the proceeding? (Y/N)	Yes	Yes
b. Were there other parties to the proceeding? (Y/N)	Yes	Yes
c. If so, provide name of other parties: The Utility Reform Network (TURN), Disability Rights Advocates, The Latino Issues Forum.		Yes
d. Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party: NCLC continued to collaborate closely in this phase of the Lifeline proceeding with TURN, Disability Rights Advocates and the Latino Issues forum. Our organizations have been collaborating closely for years and have become very efficient in how we manage our participation in this proceeding. We filed joint consumer comments and, due to limited resources, NCLC was often the consumer organization representative on the Lifeline Implementation Working Group calls and kept the other consumer groups abreast of the status of the implementation and emerging issues. In order to avoid duplication, our organizations conferred to strategize and prepare joint comments. After coming to consensus on our joint positions on issues, drafting assignments were made for particular sections of the comments and all organizations shared final editing responsibilities. As Joint Consumers, we reached out to DRA during the comment cycles to look for opportunities for consensus. Joint Consumers and DRA also had a conversation with Commissioner Gruenich about concerns regarding pre-qualification.		Yes

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

Concise explanation as to how the cost of claimant’s participation bears a reasonable relationship with benefits realized through participation (include references to record, where appropriate)	CPUC Verified
NCLC’s participation in this proceeding was essential because over 2 million low-income California consumers participate in the Lifeline program (we note this number has dropped from over 3 million before the new certification and verification and programmatic changes to this program). California’s Lifeline was a \$570 million program -- of which \$330 million was from the Federal Lifeline and Link-Up program. California Lifeline provides discounted local phone service and discounted connection rates to eligible low-income California consumers. The benefits realized through NCLC’s participation are hard to quantify in dollar terms because the ultimate benefits to consumers, while unquestionably large, are hard to quantify. We note that this proceeding is of vital importance to the 2 million current California Lifeline customers as well as the millions more who are eligible, but are not enrolled. NCLC has worked closely with their Joint Consumer partner groups and the other stakeholders to develop short and long-term measures to build a robust Lifeline program for eligible low-income Californians through comments, workshops and working groups. In this case the benefits of NCLC’s participation clearly outweigh the costs.	Yes

B. Specific Claim:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Olivia Wein	2007	16.00	265.00	D.07-10-002	4,240.00	2007	9.70	265.00	\$ 2,570.50
Olivia Wein	2008	50.75	285.00	D.07-01-009	14,463.75	2008	42.25	285.00	\$12,041.25
Charlie Harak	2007	.30	435.00	D.07-10-002	130.50	2007	.30	435.00	\$ 130.50
Subtotal:					\$18,834.25	Subtotal:			\$14,742.25
EXPERT FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
[Expert 1]					n/a				
[Expert 2]					n/a				
Subtotal:					n/a	Subtotal:			
OTHER FEES									
Describe here what OTHER HOURLY FEES you are claiming (paralegal, travel, etc.):									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
					n/a				
[Person 2]					n/a				
Subtotal:					n/a	Subtotal:			
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Olivia Wein	2008	15.00	142.50	D.07-01-009	\$ 2,137.50	2008	8.00	142.50	\$ 1,140.00
[Preparer 2]									
Subtotal:					\$ 2,137.50	Subtotal:			\$ 1,140.00

COSTS					
#	Item	Detail	Amount	Amount	
1	2007 conference	For hosting Joint Consumer conference calls in 2007.	48.73	\$ 48.73	
2	2008 conference	For hosting Joint Consumer conference calls in 2008	59.00	\$ 59.00	
Subtotal:			\$107.73	Subtotal:	\$107.73
TOTAL REQUEST \$:			\$21,079.48	TOTAL AWARD \$:	\$15,989.98

When entering items, type over bracketed text; add additional rows as necessary.

*If hourly rate based on CPUC decision, provide decision number; otherwise, attach rationale.

**Reasonable claim preparation time typically compensated at ½ of preparer’s normal hourly rate.

C. Attachments or Comments Documenting Specific Claim

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	Timeslips for D.08-08-029
3	Expenses
4	Requested Hourly Rates
5	Allocation of Time By Issue

D. CPUC Disallowances & Adjustments (CPUC completes):

#	Reason
Wein - 2007	Hours excessive given the allocation of tasks assigned by the Joint Consumers and the product produced (6.3 hrs)
Wein - 2008	Hours excessive given the allocation of tasks assigned by the Joint Consumers and the product produced (8.5 hrs).
Wein – 2008	ntervenor compensation preparation excessive given the scope of the claim, the use of the expedited form, and the experience of counsel. (reduced 7 hrs

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))

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A. Opposition: Did any party oppose the claim (Y/N)?	No
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B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(2)(6)) (Y/N)?	Yes
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FINDINGS OF FACT

1. Claimant has made a substantial contribution to Decision (D.) 08-08-029.
2. The claimed fees and costs, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The total of reasonable contribution is \$15,989.98.

CONCLUSION OF LAW

1. The claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. Claimant is awarded \$15,989.98.
2. Within 30 days of the effective date of this decision, National Consumer Law Center's award shall be paid from the intervenor compensation fund, as described in Decision 00-01-020. 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, beginning February 6, 2009, the 75th day after the filing of claimant's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.

4. This proceeding remains open to address other matters.

This decision is effective today.

Dated April 16, 2009, at San Francisco, California

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:	D0904028	Modifies Decision?	No
Contribution Decision(s):	D0808029		
Proceeding(s):	R0412001		
Author:	ALJ Karen Jones		
Payer(s):	Intervenor Compensation Fund		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
National Consumer Law Center	10-24-08	\$21,079.48	\$15,989.98	No	Excessive hours

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Olivia	Wein	Attorney	National Consumer Law Center	\$265	2007	\$265
Olivia	Wein	Attorney	National Consumer Law Center	\$285	2008	\$285
Harak	Charles	Attorney	National Consumer Law Center	\$435	2007	\$435

(END OF APPENDIX)