

Decision 09-09-025 September 10, 2009

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)

**DECISION GRANTING INTERVENOR COMPENSATION TO
DISABILITY RIGHTS ADVOCATES FOR SUBSTANTIAL CONTRIBUTIONS TO
DECISION (D.) 06-08-030, D.07-09-019, D.07-09-018, D.08-04-057 AND D.08-09-015**

Claimant: Disability Rights Advocates	For contribution to D.06-08-030, D.07-09-019, D.07-09-018, D.08-04-057, and D.08-09-015.
Claimed (\$): 161,618.20	Awarded (\$): 104,697.30 (reduced 35%)
Assigned Commissioner: Rachelle B. Chong	Assigned ALJ(s): Jacqueline A. Reed (April 14, 2005 - October 25, 2006) Karl Bemederfer (October 26, 2006 - Present)

PART I: PROCEDURAL ISSUES (completed by Claimant)

- A. Brief Description of Decision:**
- D.06-08-030:** Evaluates both statutory guidance and market conditions in determining whether we may rely more heavily on competitive forces to produce just and reasonable rates for California's telephone consumers with two reservations for the right to concur separately.
- D.07-09-019:** Adopts Telecommunications Industry Rules, as set forth. Closes R.98-07-038.
- D.07-09-018:** Consolidates proceedings, clarifies rules for advice letters under the uniform regulatory framework, and adopts procedures for detariffing. Closes R.98-07-038.
- D.08-04-057:** Approves Pacific Bell Telephone Co. Advice Letters 28800 and 28982 with modification.
- D.08-09-015:** Adopts no additional monitoring reports as required by any carrier subject to Commission jurisdiction at this time, no changes in the Commission's pricing regulations

for retail special access services at this time, and no additional consumer protection disclosures at this time.

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:	N/A	Yes
2. Other Specified Date for NOI:	No Formal Date Set, <i>See Comments in § I.C below.</i>	Yes
3. Date NOI Filed:	July 7, 2005	Yes
4. Was the notice of intent timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	R.05-04-005	Yes
6. Date of ALJ ruling:	October 11, 2006	Yes
7. Based on another CPUC determination (specify):	No	
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.05-04-005	Yes
10. Date of ALJ ruling:	October 11, 2006	Yes
11. Based on another CPUC determination (specify):	No	
12. Has the claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision	D.06-08-030 D.07-09-019 D.07-09-018 D.08-04-057 D.08-09-015	Yes
14. Date of Issuance of Final Decision:	August 24, 2006; September 6, 2007; September 6, 2007; April 24, 2008; September 9, 2008.	Yes
15. File date of compensation request:	November 10, 2008	Yes
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I (use line reference # as appropriate):

#	Claimant	CPUC	Comment
1.	DisabRA		Regarding §I.B.2 on Timely NOI Filing: No formal deadline was ever set for party NOIs. July 5, 2005 was informally determined as the filing deadline (Oct. 11, 2006 Ruling at 2 fn. 2), but DisabRA’s NOI was determined to have met the eligibility requirements in a ruling dated October 11, 2006 ruling at Finding #3 “DisabRA has met the eligibility requirements of Pub. Util. Code § 1802(b)(1)(C).” Other parties to this proceeding submitted NOIs up to two months after DisabRA. ¹
2.	DisabRA		Regarding § I.B.5 on Customer Status Requirement: The Oct. 11, 2006 Ruling states at 2 that “[a]ll five of the requesting parties satisfy this [Customer Status] requirement. . . . DisabRA . . . meet(s) this requirement by . . . (an) organization, as described in § 1802(b)(1)(C), authorized pursuant to their articles of incorporation to represent the interests of their members, many of whom are residential ratepayers.”
3.	DisabRA		Regarding § I.B.9 on Significant Financial Hardship: The Oct. 11, 2006 Ruling states at 3-4 that “DisabRA’s showing satisfies the requirements of § 1804(a) and supports a finding of a ‘significant financial hardship.’”
4.	DisabRA		Regarding § I.B.13 on Identifying the Final Decision: DisabRA has not sought compensation prior to this decision; therefore this compensation request includes all work done by DisabRA since the initiation of the proceeding.

PART II: SUBSTANTIAL CONTRIBUTION (completed by Claimant)

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
In conjunction with the other consumer groups, DisabRA made substantial contributions to the discussion of the issues dealt with in this proceeding by presenting perspectives that were relevant concerning the availability and access to telecommunications services for people with disabilities. DisabRA presented the Commission with	See all documents filed by DisabRA to participate in the hearing. See also, Additional Comments (§ II.C of this request for compensation) stating that DisabRA’s significant contribution to expanding the record supports compensation.	Yes

¹ Disability Rights Advocates.

<p>information regarding specific barriers impeding use of telecommunications as well as recommendations on how to reduce or eliminate such barriers as part of any regulatory restructuring. DisabRA presented evidence that shed light on how people with disabilities face limited choices in terms of services and service providers, as well as how regulation or deregulation would uniquely impact low income people with disabilities. DisabRA also addressed how the Commission could craft a regulatory framework that would best ensure affordable access to services for people with disabilities.</p>		
<p>1. At the start of this proceeding, DisabRA Contributed to the discussion forming issues, as relied upon for the remainder of the proceeding, as follows:</p> <ul style="list-style-type: none"> • On May 31, 2005, DisabRA was among sixteen parties who filed opening comments in the rulemaking pursuant to the OIR. • On September 2, 2005 DisabRA filed reply comments. • DisabRA attended the June 3, 2005 Workshop which prompted the Commission to issue a more definite scoping memo. • DisabRA also attended the September 20-22 workshop. The parties' presentations are summarized in the decision. • DisabRA participated in the evidentiary hearings that took place from January 20 to February 2, 2006. <p>On March 6, 2006 DisabRA filed a brief in this proceeding and on March 24, 2006</p>	<p><i>See generally</i>, D.06-12-044.</p> <ul style="list-style-type: none"> • <i>Id.</i> • <i>Id.</i> • D.06-08-030 at 13. • D.06-12-044 at 15-2. <i>See also</i> D.06-08-030 at 16-17. • D.06-12-044 at 3 fn. 9. <i>See also</i> D.06-08-030 at 26-27. • D.06-12-044. 	<p>Yes</p>

<p>DisabRA filed a reply brief.</p>		
<p>2. On September 29, 2006, DisabRA filed an application for Rehearing. DisabRA concurred with TURN and DRA’s briefs filed the same date and also raised two “allegations of legal error . . . (1) the Decision fails to make sufficient findings of fact and conclusions on law on the issues raised by DisabRA in the proceeding in violation of section 1705; and (2) the Decision fails to clearly refer to the issues raised by DisabRA to R.06-05-028.”</p>	<p>D.06-12-044 at 4-5.</p>	<p>Yes</p>
<p>3. In D.06-08-030, DisabRA significantly contributed to the discussion about how service provider market control impacts people with disabilities. The Commission noted that DisabRA joined DRA and TURN’s arguments that the ILECs continue to enjoy significant market control but appropriately limited its discussion of these market control issues to the impact that market control has on people with disabilities.</p> <ul style="list-style-type: none"> • DisabRA asserted that “the largest wireline providers face very little competition in their provision of services to Californians with disabilities.” DisabRA argued that because of this limited competition service providers are accordingly “unwilling to offer accessible or disability-related services and products to Californians with disabilities because they perceive the disability market as unattractive.” • At the hearings prior to this decision DisabRA put forth testimony from expert Dmitri Belser. 	<p>D.06-08-030 at 70 – 71 and 114.</p>	<p>No, we disagree that a substantial contribution was made on this issue. The Commission merely noted DisabRA’s discussion. The Commission did not accept or dispute DisabRA’s arguments. <i>See</i> III-D at 18-19.</p>

<ul style="list-style-type: none"> • Dmitri Belser reconfirmed for the Commission that people with disabilities rely on wireline service more than other services and that with newer technologies, accessibility barriers are pervasive and mean that other newer services cannot be substituted for the wireline services. 		
<p>4. In D.06-08-030, the Commission noted that its “analysis of how to address pricing freedoms for basic residential services must review both statutory policies and market conditions.”</p> <ul style="list-style-type: none"> • DisabRA significantly contributed to the discussion about the lack of “intra-modal” competition for disabled users. • DisabRA emphasized that the ILEC services, while still problematic in some ways, are superior to those provided by the CLEC and smaller providers for people with disabilities, because the ILECs make some effort to provide access, including, for example, large print bill service and disability-specific customer service. • DisabRA also provided evidence that people with disabilities rely on ILEC services almost exclusively. 	<p>D.06-08-030 at 90- 91 and 98-99 and 150-151.</p> <ul style="list-style-type: none"> • <i>See id.</i>, at 90-91. • <i>See id.</i>, at 90- 91 and <i>see e.g.</i>, 98-99 and 150-151. • <i>Id.</i> 	<p>Yes</p>
<p>5. In D.06-08-030, the Commission noted that DisabRA made the important showing that the “services used by their disabled constituents are special and differ from the mass market communication services.”</p> <ul style="list-style-type: none"> • The Commission also observed that the special services used by 	<p>D.06-08-030 at 131.</p> <ul style="list-style-type: none"> • <i>Id.</i>, and <i>see also</i>, D.06-08-030 at 156. 	<p>No, we disagree that DisabRA made a substantial contribution on these issues. <i>See</i> III-D at 18-19.</p>

<p>the disabled community should be addressed in proceeding R.06-05-028 which was directed to focus on the public policy programs targeted at both the LifeLine and disabled communities.</p>		
<p>6. DisabRA significantly contributed to the central discussion of price controls for basic residential service. DisabRA, along with the other consumer groups, argued that new services should continue to be price regulated.</p> <ul style="list-style-type: none"> • Although the Commission ultimately found that price controls were not in the public interest, DisabRA and the other joint consumers significantly contributed to the discussion by voicing opposition and laying out potential caveats of removing price controls. The work done to produce evidence and further this element of the discussion significantly contributed to the Commission’s ability to weigh the costs and benefits of its decision. 	<p>D.06-08-030 at 168.</p> <ul style="list-style-type: none"> • See D.06-08-030 at 169 and 177. 	<p>No, we disagree that DisabRA made a substantial contribution to the decision on this issue. See III-D at 18-19.</p>
<p>7. In D.06-08-030, DisabRA contributed to the Commission’s discussion of how information is disseminated to people with disabilities.</p> <ul style="list-style-type: none"> • The Commission noted that “the points raised by DisabRA . . . [like] better information on competition and on the effects of Californians with disabilities, can be useful to the Commission [and] are well taken.” • DisabRA, along with TURN, supported maintaining a ninety- 	<p>D.06-08-030 at 195.</p> <ul style="list-style-type: none"> • <i>Id.</i> at 218. • <i>Id.</i> at 195. 	<p>Yes</p>

<p>day limit on promotions and favored requiring providers who offered promotions for more than 90 days to offer those promotions for resale.</p> <ul style="list-style-type: none"> • DisabRA argued for this ninety day limit in order to promote dissemination of information to people with disabilities and to encourage providers to “let people with disabilities know what is available.” • The Commission noted that DisabRA made the important point that “many Californians with disabilities are inadequately informed about what accessible and disability-related services and products are offered by providers. [Moreover] even where providers do offer accessible products or services, there is adaptive equipment that makes such products or services are functionally accessible.” Accordingly, DisabRA urged the Commission to spend time during Phase II focusing on establishing specific monitoring and auditing requirements that would prompt telecommunications companies to provide adaptive equipment. The Commission later accepted DisabRA’s argument and explicitly ordered parties to submit monitoring recommendations to be considered during Phase II. 	<ul style="list-style-type: none"> • <i>Id.</i> at 195. • <i>Id.</i> at 205-206 and 218. 	
<p>8. The Commission noted that “the points raised by DisabRA . . . [like] better information on competition and on the effects of Californians with disabilities, can be useful to the</p>	<p>D.06-08-030 at 218.</p>	<p>Yes</p>

<p>Commission [and] are well taken.”</p> <ul style="list-style-type: none"> In D.06-08-030, the Division of Ratepayer Advocates brought the Commission’s attention to “the concern that the well-being of vulnerable customers otherwise could be endangered due to inadequate notice requirements for service withdrawal.” DisabRA significantly contributed to this discussion by raising the additional point that, as the Commission noted, “there are services other than basic residential and business access line services that may be essential to some customer groups, such as disabled customers, even when they are not essential for the broader population.” 	<ul style="list-style-type: none"> D.06-08-030 at 201. 	
<p>9. In the proposed decision issued by Commissioner Chong on July 23, 2007, the Commission noted that DisabRA, along with DRA, strongly pushed the Commission to consider the issue of detariffing and lifting regulations on telecommunications providers. Specifically DisabRA encouraged the Commission to consider whether “traditional tariffs are the best vehicle to serve consumer and Commission interests under the new regulatory regime.” In the same section, the Commission also noted the importance of requiring the telephone providers to disseminate adequate information – an issue that DisabRA joined DRA in promoting in their briefing on this topic and an area that DisabRA focused on throughout this proceeding.</p>	<p>July 23, 2007 proposed decision at 34. <i>See also, id</i> at 37, fn. 86 citing Division of Ratepayer Advocates and DisabRA brief at 3-4 and at 45, fn. 101.</p>	<p>Yes</p>
<p>10. In D.08-09-015 the Commission noted the importance of DisabRA’s efforts to push for additional</p>	<p>D.08-09-015 at 34.</p>	<p>No, the Commission rejected DisabRA’s</p>

<p>monitoring reports. Specifically, the Commission noted that “DRA, and DisabRA, and TURN specifically argue that the reports filed with the FCC . . . and the information contained in advice letter filings, and available from other sources such as carrier web sites, is inadequate.” These groups brought to light the concern that this method of monitoring would fail “to ensure consumers that the Commission will monitor the affordability of services.” This issue of the affordability of services is one that DisabRA focused on throughout the proceeding.</p>		<p>claim that additional monitoring reports were necessary. We do, however, agree that DisabRA’s arguments contributed to the development of the record and our considerations of this issue, so we make no adjustments in the request for hourly compensation.</p>
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B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
<p>a. Was DRA a party to the proceeding? (Y/N)</p>	<p>Y</p>	<p>Yes</p>
<p>b. Were there other parties to the proceeding? (Y/N)</p>	<p>Y</p>	<p>Yes</p>
<p>c. If so, provide name of other parties:</p> <p>SNAVELY KING & MAJOROS O'CONNOR & LEE INC , U. S. ARMY LEGAL SERVICES AGENCY, ASSOCIATION OF OIL PIPE LINES, REGULATORY LAW OFFICE JALS-RL, BANK OF AMERICA, CITIZENS/FRONTIER COMMUNICATIONS, UTILITECH INC., VERIZON, SHELL CALIFORNIA PIPELINE COMPANY LLC, XO COMMUNICATIONS SERVICES, INC., SOUTHWEST GAS CORPORATION, SOUTHWEST GAS CORPORATION, WINSTON & STRAWN LLP, CALIFORNIA COGENERATION COUNCIL, VALENCIA WATER COMPANY, VERIZON CALIFORNIA, INC., SOUTHERN CALIFORNIA EDISON COMPANY, COX COMMUNICATIONS, SAN DIEGO GAS & ELECTRIC COMPANY, SEMPRA ENERGY UTILITIES/SAN DIEGO, GAS & ELECTRIC/SOUTHERN CALIFORNIA GAS, KINDER MORGAN ENERGY PARTNERS, ARRIVAL COMMUNICATIONS, CENTRO LA FAMILIA, THE UTILITY REFORM NETWORK, FPL ENERGY PROJECT MANAGEMENT, INC., VERIZON, SF OFFICE OF THE CITY ATTORNEY, DIVISION OF RATEPAYER ADVOCATES, BOWEN LAW GROUP, PACIFIC GAS AND ELECTRIC COMPANY, AT&T CALIFORNIA, PACIFIC BELL TELEPHONE COMPANY, SBC CALIFORNIA, PACIFIC GAS AND ELECTRIC COMPANY, SPRINT NEXTEL, MORRISON & FOERSTER LLP, PACIFIC BELL (AT&T CALIFORNIA) COMPANY, TIME WARNER CONNECT/NORTHPOINT, COMMUNICATIONS, INC./CENTRAL WIRELESS, CSBRT/CSBA, SIMPSON PARTNERS, COOPER, WHITE & COOPER, LLP, SURE WEST TELEPHONE, LATINO ISSUES FORUM, GOODIN, MACBRIDE, SQUERI, DAY & LAMPREY, CA ASSN OF COMPETITIVE</p>		<p>Yes</p>

<p>TELECOMMUNICATIONS CARRIERS, GOODIN MACBRIDE SQUERI DAY & LAMPREY LLP, CTIA, EVANS/GTE WEST COAST/HAPPY VALLEY/HORNITOS/KERMAN/PINNACLES/ SISKIYOU/ VOLCANO/ WINTERHAVEN, SMALL LECS/FRONTIER COMMUNICATIONS OF CALIFORNIA, CALTEL, MANATT PHELPS & PHILLIPS, GOODIN MACBRIDE SQUERI DAY & LAMPREY LLP NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP, CALIFORNIA PAYPHONE ASSOCIATION COMPETITIVE TELECOM, INTEGRA TELECOM OF CALIFORNIA, XO COMMUNICATIONSSERVICES, INC., CONSUMER FEDERATION OF CALIFORNIA, NEXTEL OF CALIFORNIA, INC./SPRINT, MURRAY & CRATTY, R.M. HAIRSTON COMPANY, AIRTOUCH COMMUNICATIONS, INC. , THE STRANGE LAW FIRM, S.F. BAY AREA RAPID TRANSIT, THE GREENLINING INSTITUTE, DISABILITY RIGHTS ADVOCATES, TOBIN LAW GROUP, SAN JOSE WATER COMPANY, PAC-WEST TELECOMM, INC. , MURRAY & CRATTY, LLC, CALIFORNIA WATER ASSOCIATION, FRONTIER COMMUNICATIONS OF CALIFORNIA, CITIZENS TELECOMMUNICATIONS COMPANY OF CALIFORNIA INC., CA DEPARTMENT OF GENERAL SERVICES, CALIFORNIA URBAN WATER CONSERVATION, O1 COMMUNICATIONS, INC., CAL - UCONS, INC., WESTERN MANUFACTURED HOUSING COMMUNITIES TELECOMMUNICATIONS RESELLERS ASSN.</p> <p>Information Only: LEVEL 3 COMMUNICATIONS, LLC, CBeyond COMMUNICATIONS, FULL POWER CORPORATION, AT& T SERVICES INC., COVAD COMMUNICATIONS COMPANY, QWEST COMMUNICATION CORPORATION, VERIZON CALIFORNIA INC., VARTEC TELCOM, INC., SOUTHERN CALIFORNIA EDISON COMPANY, SAN DIEGO GAS & ELECTRIC COMPANY, UTILITY SPECIALISTS, UCAN, PUBLIC UTILITIES DEPARTMENT, CITY OF RIVERSIDE, DAVIS WRIGHT TREMAINE LLP, PACIFIC RESEARCH INSTITUTE, SANTA CLARA UNIVERSITY SHCOOL OF LAW, THE BROADBAND INSTITUTE OF CALIFORNIA, CONSUMER FEDERATION OF CALIFORNIA, MOUNTAIN UTILITIES, SBC LONG DISTANCE, COMCAST PHONE OF CALIFORNIA, LLC, WILSON & BLOOMFIELD, LLP, DEAF & DISABLED TELECOMMUNICATIONS PRGRM, GREAT OAKS WATER COMPANY, LEVEL 3 COMMUNICATIONS, LLC, BRAUN BLAISING MCLAUGHLIN P.C., INTEGRA TELECOM HOLDINGS, INC., QWEST COMMUNICATIONS CORPORATION</p> <p>State Service: CPUC</p>	
<p>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:</p> <p>DisabRA worked closely with DRA and TURN as appropriate throughout this proceeding. We coordinated to identify common issues so that we would not duplicate efforts with these consumer groups. Most relevant is our collaboration with TURN and our decision to sign on to their filings at various stages in order to avoid a duplicative effort. For example, DisabRA and TURN worked closely together regarding arguments for protecting low-income people because this consumer group includes a substantial number of people with disabilities as the relevant subgroup of consumers with disabilities is disproportionately low income. Accordingly, DisabRA worked with TURN to ensure that these joint filings addressed the specific needs of low income people with disabilities as part of their argument. DisabRA chose to coordinate with other consumer groups to avoid</p>	<p>Yes</p>

<p>the duplicative efforts of independently pursuing and re-asserting the low income arguments for specifically people with disabilities. Moreover, it was through this coordinated effort that, particularly early on, all parties were able to work together in Workshops and to create the issue matrix to find areas of agreement which narrowed the key areas of agreement and disagreement so that the proceeding could move forward more efficiently. DisabRA sustained this coordinated effort with TURN and DRA throughout the proceeding. <i>See e.g.</i>, “Amended Brief of DRA and DisabRA on Detariffing Issues” filed October 3, 2006. Additionally, on the issue of reporting formats, DisabRA closely coordinated with TURN’s expert, Trevor Raycroft and ultimately endorsed TURN’s proposals in order to avoid submitting duplicative proposals. DisabRA focused its independent efforts on issues unique to our constituency that were not otherwise addressed.</p>	
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C. Additional Comments on Part II (completed by claimant. indicate line references where needed):

#	Claimant	CPUC	Comment
II.A	DisabRA		<p>In general, compensation for qualified interveners is appropriate if the Commission adopts one or more of the factual or legal contentions, or specific policy or procedural recommendations put forward by the consumer group. California P.U.Code § 1802(i). This assessment requires the exercise of judgment. Even if none of a customer’s recommendations are adopted, a consumer group may still be justly entitled to compensation if, in the judgment of the Commission, the customer’s participation <i>substantially contributed</i> to the decision or order. Substantial contribution exists, for example, if a consumer group has provided a unique perspective that enriched the Commission’s deliberations and the record.</p> <p>In D.07-05-050 the Commission found that TURN had met the substantial contribution requirement at an earlier stage of this proceeding based on similar contributions as DisabRA. In that decision, the Commission noted that “[d]espite the strong urging of the carriers to eliminate all monitoring going forward, the Commission pledged to ‘remain vigilant in monitoring the voice communications marketplace.’ While the Commission did not fully adopt TURN [and DisabRA’s] position, it did acknowledge [their] 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 [the Commission] clarify[ied] that Phase II should determine what information and what reports can best meet the Commission needs in the new competitive environment.’” D.07-05-050 at 8. In the same decision, the Commission likewise noted that “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 Commission adopted a price cap which parallels, but does not match, TURN’s proposal.” D.07-05-050 at 9. DisabRA advocated for a similar price cap as TURN and accordingly DisabRA’s contribution to this issue should be similarly viewed as significant. The Commission also found that TURN substantially contributed to this proceeding because they were “among a handful of parties that strongly urged that hearings be held in this proceeding” – a group that included DisabRA. D.07-05-050 at 9. DisabRA, like TURN, advocated that the proceeding be “focused on the level of competition and market power.” <i>Id.</i> DisabRA also focused on these issues in comments, briefing, and the 2005 workshops and focused on these issues with regard to low income Californians</p>

		<p>with disabilities. In the same way that “TURN made a substantial contribution in this proceeding” because “[t]o the benefit of all, TURN was particularly tenacious in getting the issues of the proceeding focused and clarified,” DisabRA also tenaciously fought to focus and clarify the issues in this proceeding. D.07-05-050 at 9. In the same way that “from the start, TURN participated fully in every round of comments, workshops, hearings, and briefings,” DisabRA also participated in every step of this proceeding from its inception to the present. D.07-05-050 at 9. In the same way that TURN substantially contributed by making sure that “the needs of low-income consumers or those who choose to limit their spending on telecommunications services [were] weighed and considered,” DisabRA substantially contributed by ensuring that the needs of low income people with disabilities had a voice in this proceeding and it is because of DisabRA that the Commission duly considered the interests of this subgroup of consumers.</p> <p>There can be no doubt that on all of these issues, and through the duration of this proceeding, DisabRA’s participation enriched the record and enabled the Commission to more fully consider each issue. Finally, as noted elsewhere, the Commission has itself adopted this view of TURN’s earlier substantial contribution to this proceeding and accordingly DisabRA’s contribution should also be seen as substantial, valuable, and worthy of compensation.</p>
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PART III: REASONABLENESS OF REQUESTED COMPENSATION (completed by Claimant)

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
<p>It is not possible to directly quantify the benefits to the significant number of low-income disabled persons who are affected by the revision of the Commission’s regulation of telecommunications utilities. However, the record shows that DisabRA’s participation resulted in substantial benefits to low-income disabled consumers and to low-income consumers generally because DisabRA ensured that this underrepresented population had a voice and in doing so, DisabRA significantly enriched the debate that lead to the final decision.</p> <p>The contribution of DisabRA cannot be quantified in a standard cost-benefit-analysis because the value of what we add is unmonetizable. DisabRA gives a voice to low income people with disabilities and brings the unique perspective and concerns of people with disabilities to the Commission’s attention. Without our participation, this large but largely voiceless constituency might be wholly overlooked. The Commission specifically noted the value of the contribution of consumer groups in D.07-05-050 where it stated: “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.” D.07-05-050 at 8. The Commission here went on to emphasize the importance of the consumer groups on (a) identifying and narrowing the issues for review in this proceeding (b) information dissemination (c) detarrifing and (d) monitoring of telecommunications and the effects that the new regulatory scheme might have on low income consumers. <i>See generally</i>, D.07-05-050 at 8-9.</p>	<p>After the adjustments and disallowances we have made to this claim, the remainder of DisabRA’s costs are reasonable.</p>

<p>DisabRA's collaboration and efficient division of labor with TURN, DRA, and others, resulted in vigorous advocacy in support of the interests of low-income California consumers (and specifically California consumers with disabilities) who would have been underrepresented if not for the availability of intervener compensation. Thus, the benefits of DisabRA's participation outweighed the costs and DisabRA, like TURN and DRA, substantially contributed to this proceeding. <i>See generally</i> D.07-05-050.</p>	
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B. Specific Claim:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Melissa Kasnitz	2005	33.80 <i>See</i> Attach 7	350	D.06-04-021 <i>See also,</i> Attachment 4	11,830	2005	33.80	350	11,830
Roger Heller	2005	146.80 <i>See</i> Attach 7	220	D.07-04-032 <i>See also,</i> Attachment 4	32,296	2005	146.8	220	32,296
Melissa Kasnitz	2006	50.10 <i>See</i> Attach 8	360	D.07-06-040	18,036	2006	50.1	360	18,036
Roger Heller	2006	125.30 <i>See</i> Attach 8	260	D.07-06-040	32,578	2006	125.3	260	32,578
Kasey Corbit	2006	84.2 <i>See</i> Attach 8	195	<i>See</i> Attachment Number 4	16,419	2006	84.2	180	15,156
Melissa Kasnitz	2007	19.00 <i>See</i> Attach 9	390	D.07-06-040	7,410	2007	19.0	390	7,410
Kasey Corbit	2007	33.20 <i>See</i> Attach 9	210	<i>See</i> Attachment Number 4	6,972	2007	33.2	195	6,474
Melissa Kasnitz	2008	7.50 <i>See</i> Attach 10	420	<i>See</i> Attachment Number 4	3,150	2008	7.5	420	3,150

Kasey Corbit	2008	19.30 <i>See Attach 10</i>	235	<i>See Attachment Number 4</i>	4,535.50	2008	19.3	210	4,053
Subtotal:					\$133,226.5	Requested Hourly Compensation:			\$130,983.00
30% reduction for lack of substantial contribution, see III-D at 18-19.						Minus Disallowance			-\$ 39,294.90
						Adjusted Subtotal			\$ 91,688.10
EXPERT FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Dmitri Belser	2006	32	125	<i>See Attachment Number 5</i>	4,000	2006	32	125	4,000
Subtotal:					\$4,000	Subtotal:			\$4,000
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 \$
Paralegal/ Law Clerk/ Outreach	2005	33.7 <i>See Attach 7</i>	90	D.06-04-021 <i>And See Attachment Number 4</i>	3,033	2005	27.7	90	2,493
Paralegal/ Law Clerk/ Outreach	2006	34.2 <i>See Attach 8</i>	90	D.07-06-040 <i>And See Attachment Number 4</i>	3,078	2006	28.3	90	2,547
Paralegal/ Law Clerk/ Outreach	2007	9.1 <i>See Attach 9</i>	100	D.07-06-040 <i>And See Attachment Number 4</i>	910	2007	6.3	100	630
Paralegal/ Law Clerk	2008	4.4 <i>See Attach 10</i>	110	<i>See Attachment Number 4</i>	484	2008	3.8	110	418
Subtotal:					\$7,505	Subtotal:			\$6,088

INTERVENOR COMPENSATION CLAIM PREPARATION (1/2 RATE)									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Roger Heller	2005 <i>See Attach 11</i>	4.00	220	D.07-06-040	1,040	2005	4.0	110	440
Kasey Corbit	2008 <i>See Attach 12</i>	.1	235	<i>See Attachment Number 4</i>	23.50	2008	.1	105	10.5
Julia Pinover	2008 <i>See Attach 12</i>	43.4	180	<i>See Attachment Number 4</i>	\$7,812	2008	6.7	75	502.5
Melissa Kasnitz	2008 <i>See Attach 12</i>	6.0	420	<i>See Attachment Number 4</i>	\$2,520	2008	6.0	210	1,260
Law Clerk/ Paralegal	2008 <i>See Attach 12</i>	3.2	110	<i>See Attachment Number 4</i>	352	2008	3.2	55	176
Subtotal:					\$11,747.50²	Subtotal:			\$2,389
COSTS									
#	Item	Detail			Amount \$	Amount \$			
1	Printing and Photocopying	<i>See Attachment Number 13</i>			4,627.25	100.00			
2	Postage and Delivery	<i>See Attachment Number 13</i>			396.05	396.05			
3	Telephone and Fax	<i>See Attachment Number 13</i>			36.15	36.15			
4	Travel	<i>See Attachment Number 13</i>			79.75	0			
Subtotal:					\$5,139.20	Subtotal:			\$532.20
TOTAL REQUEST \$:					\$161,618.20	TOTAL AWARD \$:			\$ 104,697.30

² In its Reply to Verizon's Response to the Request for Intervenor Compensation of Disability Rights Advocates, December 23, 2008 at 1, DisabRA acknowledges that it indeed made an error by requesting compensation at full hourly rate, instead of 1/2 hourly rates. We correct this error here and adjust this compensation request accordingly.

C. Attachments or Comments Documenting Specific Claim (not attached to final decision):

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	General Comment and Request Regarding Standardized Intervener Compensation Form
3	Reasonableness of Staffing and Number of Hours
4	Justification of Rates for Attorneys and Paralegals
5	Justification of Expert Fees
6	Reasonableness of Costs
7	Detailed Records for Work on the Merits in 2005
8	Detailed Records for Work on the Merits in 2006
9	Detailed Records for Work on the Merits in 2007
10	Detailed Records for Work on the Merits in 2008
11	Detailed Records for Work on the Fees 2005
12	Detailed Records for Work on the Fees 2008
13	Detailed Expense Records

D. CPUC Adoptions, Disallowances & Adjustments:

#	Reason
2005-Heller	DisabRA correctly computes Heller's 2005 hourly rate for professional time at \$220, however, DisabRA uses an incorrect rate of \$260 (1/2 rate of \$130) for hours Heller spent preparing intervenor compensation documents. Using the previously approved 2005 rate of \$220 (1/2 rate of \$110), we recalculate DisabRA totals, and use the corrected figures for the final award.
2005-Paralegal/Law Clerk Hours	Reduced by 6.0 hours to disallow clerical tasks. Examples of these tasks are: preparing letter, forwarding ALJ's ruling to Melissa Kasnitz, filing and serving OIR, reviewing and organizing comments, preparing document for filing, emailing CPUC re: new address for service list, and reviewing email re: change to service list and update file.
2006-Paralegal/Law Clerk Hours	Reduced by 5.9 hours to disallow clerical tasks. Examples of these tasks are: filing and serving reply comments, updating calendar and dates, mailing application for rehearing to parties who did not receive electronic copies, calendaring prehearing conference and opposition for application for rehearing dates, reviewing and indexing pleadings.
2007-Paralegal/Law Clerk Hours	Reduced by 2.8 hours to disallow clerical tasks. Examples of these tasks are: reviewing and indexing pleadings, filing and serving comments, calendaring dates, reviewing and indexing documents and reviewing and indexing files.

2006-Corbit	Corbit is new to Commission proceedings and has never previously had a rate set for work before the Commission. Corbit is a 2004 graduate of U.C. Hastings College of Law who worked at the Mental Health Advocacy Program after graduation and joined DisabRA in 2006. DisabRA requests an hourly rate of \$195, which is at the top end of the rate range for attorneys with 0-2 years of experience in 2006. Given Corbit is new to Commission proceedings and has minimal related legal experience, we adopt a more reasonable rate of \$180, which is still at the higher end and within the range of rates (\$140-\$195) adopted by the Commission for attorneys with 0-2 years of experience.
2007-Corbit	Adopted rate of \$180 for work in 2006 plus 5% step increase and 3% COLA.
2008-Paralegal/Law Clerk Hours	Reduced by .6 hours to disallow clerical tasks. Examples of these tasks are: reviewing and indexing documents, and updating the calendar.
2008-Corbit	Adopted rate of \$195 for work in 2007 plus 5% step increase and 3% COLA.
2008-Pinover	Pinover is new to Commission proceedings and has never previously had a rate set for work before the Commission. Pinover is a 2007 graduate of Georgetown University Law Center who joined DisabRA immediately following graduation. DisabRA requests an hourly rate of \$180, which is mid-range for attorneys with 0-2 years of experience (\$150-\$205). In this proceeding, Pinover worked exclusively on preparation of this compensation claim. Given that Pinover is new to Commission proceedings, has no related legal experience and performed no difficult legal tasks or analysis in this proceeding, we adopt a more reasonable rate of \$150 for work in 2008, which is at the lower end but within the range of rates (\$150-\$205) adopted by the Commission for attorneys with 0-2 years of experience.
Lack of Substantial Contribution, items #3, #5 and #6, pages 5-10.	<p>Total hourly compensation request reduced by 30% (\$)</p> <p>The decision noted DisabRA’s discussion but the decision did not accept or dispute DisabRA’s arguments. Instead, the decision specifically states that “these issues are not critical to our inquiry in this more generic proceeding.”³ The special services used by the disabled community instead are being addressed in a separate rulemaking proceeding, which will look at the public policy programs targeted at both the LifeLine and disabled communities.⁴ We disallow 10% of DisabRA’s total hourly compensation request for lack of substantial contribution on these issues.</p> <p>D.06-08-030 at 156 states that “DisabRA has raised valid issues relating to telecommunications services and the disability community. Nevertheless, we find that these issues are best left to R.06-05-028, in which we will review programs that ensure members of the disability community receive</p>

³ D.06-08-030 at 131.

⁴ R.06-05-028.

	<p>telecommunications services. In addition to examining LifeLine, R.06-05-028 also will review the deaf and disabled telecommunications program. Input will be gathered from the disability community via public hearings in the proceeding. R.06-05-028, consequently, is the appropriate proceeding for determining how to revise our policies in light of increasing levels of competition. Price changes that we make today leave in place programs of special interest to the disabled communities in California.” We disallow 10% of DisabRA’s total hourly compensation request for lack of substantial contribution on these issues.</p> <p>The Commission rejected DisabRA’s arguments made about price controls, as being too restrictive. D.06-08-030 at 169 states “...the proposed limitations would be anti-competitive and would discourage and delay the introduction of new devices to customers. Hence, we hold that these restrictions are not in the public interest.” We disallow 10% of DisabRA’s total hourly compensation request for lack of substantial contribution on this issue.</p>
<p>2008-Pinover hours for preparation of intervenor compensation claim</p>	<p>The hours billed for intervenor compensation preparation for this participant (43.4) are excessive, given the scope of the proceeding and the product produced. In addition, by DisabRA’s own admission, it sought out a copy of TURN’s compensation request as a model, assumingly to expedite the preparation of its own claim. We allow a total of 20 hours collectively for all participants, which we believe to be reasonable. As such, we reduce Pinover’s hours by 36.7 hours to achieve this allowance. This adjusted total more closely reflects our standards of reasonableness.</p>
<p>Printing/Photocopying Expenses</p>	<p>DisabRA requests \$4,627.25 for printing/photocopying costs (equal to 23,136 copies @ 20¢) it claims it incurred in the duplication of documents that were electronically filed and served by the parties in the proceeding as well as rulings and decisions of the Commission. While DisabRA may wish to copy documents that are electronically retrievable, we see no reason why ratepayers should be expected to pay for this practice. We approve \$100 of these costs and disallow the remainder (\$4,527.25) for excessiveness. Other active parties in this proceeding requested zero fees for these costs, or waived them because they were minimally incurred.</p>
<p>Costs (#4-Travel)</p>	<p>Disallowed, no justification for travel costs or receipts were submitted.</p>

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))

(CPUC completes the remainder of this form)

A. Opposition: Did any party oppose the claim (Y/N)?

Yes

If so:

Party	Reason for Opposition	CPUC Disposition
Verizon California Inc and its Certified California Affiliates	<p>Verizon in its response to Disability Rights Advocates request for intervenor compensation states that: DisabRA failed to comply with Rule 17.4, which requires that “each issue resolved by the Commission for which the intervenor claims compensation for, requires a careful delineation of costs and hours by issue.”⁵ Additionally, it points out DisabRA’s error by failing to reduce their rates for intervenor compensation matters by ½ normal hourly rates, and requests that any award be paid by the intervenor compensation fund, except for (AT&T Rule 12) issues, which should be paid by AT&T alone.</p> <p>DisabRA filed a reply to Verizon’s Response to its Request for Intervenor Compensation in support of its initial claim and justification for compensation⁶. DisabRA corrects the initial error in their claim by reducing the request for intervenor compensation matters to ½ hourly rate. In addition, it clarifies that the claim covers only requests for their substantial contributions to D.06-08-030 and D.08-09-015, thus excluding AT&T Rule 12 matters. DisabRA states that they do not proclaim to have technical or specialized area of telecommunications in general, but participate in order to present a specialized perspective on issues which affect the disability community. In this vein, DisabRA’s time was spent in two ways: by working to present the perspective of the disability community on the various proposals and issues raised in this docket, and secondly, DisabRA participated more broadly in those areas in which participation was necessary in order to maintain an appropriate awareness and understanding of the proceeding as a whole. In its NOI, DisabRA clearly stated that it “will present issues that are significant to availability and access to telecommunications services for people with disabilities”⁷ No parties objected.</p>	<p>We have considered both Verizon’s oppositions and DisabRA’s reply to Verizon’s objections in this award and have made appropriate adjustments. These adjustments along with others that are appropriate to more closely reflect our standards of reasonableness, are listed in Section D.</p>

⁵ Response of Verizon California Inc. (U 1002 C) and its Certified California Affiliates to Request for Intervenor Compensation of TURN Related to Decision 08-09-015, December 10, 2008 at 1.

⁶ Disability Rights Advocates’ Reply to Verizon’s Response to Compensation Request, December 23, 2008.

⁷ See DisabRA’s Notice of Intent to Claim Compensation, submitted July 7, 2005.

B. Comment Period: Was the 30-day comment period waived (*see* Rule 14.6(c)(6)) (Y/N)?

No

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Pub. Util. Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. No comments were received.

FINDINGS OF FACT

1. Claimant has made a substantial contribution to Decision (D.) 06-08-030, D.07-09-019, D.07-09-018, D.08-04-057, and D.08-09-015.
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 \$104,697.30.

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 \$104,697.30.
2. Within 30 days of the effective date of this decision, the total award shall be paid by the Intervenor Compensation Fund. 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 January 24, 2009, the 75th day after the filing of claimant's request, and continuing until full payment is made.

3. Rulemaking 05-04-005 remains open to address other related matters.

This decision is effective today.

Dated September 10, 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:	D0909025	Modifies Decision? No
Contribution Decision(s):	D0608030, D0709019, D0709018, D0804057, and D0809015	
Proceeding(s):	A0504005	
Author:	ALJ Karl Bemesderfer and ALJ Jacqueline Reed	
Payer(s):	Intervenor Compensation Fund	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Disability Rights Advocates	11-10-08	\$191,347.92	\$104,697.30	No	miscalculation, undocumented/excessive costs, adjusted hourly rates, clerical tasks not compensable, and failure to make a substantial contribution.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Melissa	Kasnitz	Attorney	Disability Rights Advocates	\$350	2005	\$350
				\$360	2006	\$360
				\$390	2007	\$390
				\$420	2008	\$420
Roger	Heller	Attorney	Disability Rights Advocates	\$220	2005	\$220
				\$260	2006	\$260
Kasey	Corbit	Attorney	Disability Rights Advocates	\$195	2006	\$180
				\$210	2007	\$195
				\$235	2008	\$210
Julia	Pinover	Attorney	Disability Rights Advocates	\$180	2008	\$150
Paralegals			Disability Rights Advocates	\$ 90	2005	\$ 90
				\$ 90	2006	\$ 90
				\$100	2007	\$100
				\$110	2008	\$110
Dmitri	Belser	Expert	Disability Rights Advocates	\$125	2006	\$125

(END OF APPENDIX)