

Decision 09-11-026 November 20, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Utility Consumers' Action Network (UCAN),

Complainant,

vs.

AT&T Mobility LLC dba New Cingular Wireless PCS,
 LLC, fka Cingular Wireless and related entities
 collectively, "AT&T", U 3060C,

Defendant.

Case 07-08-033
(Filed August 31, 2007)

**DECISION GRANTING INTERVENOR COMPENSATION TO
 UTILITY CONSUMERS' ACTION NETWORK
 FOR SUBSTANTIAL CONTRIBUTIONS TO DECISION 09-05-004**

Claimant: Utility Consumers' Action Network (UCAN)	For contribution to Decision (D.) 09-05-004
Claimed (\$): \$73,904.65	Awarded (\$): \$73,250.75
Assigned Commissioner: Timothy Alan Simon	Assigned ALJ: Christine M. Walwyn

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision: Approval of settlement providing non-business California customers of AT&T wireless phone services with protections to reduce International Roaming fraud, including enhanced notification of the International Roaming service and effective means to manage the service by choosing to opt-out, block, or set specific thresholds of usage.

B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code Sections 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (§ 1804(a)):		
1. Date of Prehearing Conference:	November 28, 2007	Yes
2. Other Specified Date for NOI:		
3. Date NOI Filed:	December 20, 2007	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:	A.07-01-047	Yes
6. Date of ALJ ruling:	April 10, 2007	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:	A.07-01-047	Yes
10. Date of ALJ ruling:	April 10, 2007	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.09-05-004	Yes
14. Date of Issuance of Final Decision:	May 15, 2009	Yes
15. File date of compensation request:	July 2, 2009	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>1. In August 27, 2007, UCAN filed a complaint and a request for a cease and desist order against AT&T for imposing unauthorized charges on subscribers’ cellular phone bills as well as lack of notification regarding the International Roaming service and related charges. UCAN was the only party in the case, and was therefore responsible for all litigation with AT&T.</p>	<p>C.07-08-033</p>	<p>Yes</p>
<p>2. The Commission adopted UCAN and AT&T’s negotiated Settlement Agreement stating that it was reasonable in light of the record as a whole and in the public interest because it addressed in a comprehensive and innovative manner the issues raised by UCAN in its complaint. The two residential customer victim examples UCAN discussed in the complaint both had their accounts credited in full. The Commission found that this settlement provided protections to a broad array of AT&T customers, including stating that the settlement “will ensure future customers are fully informed and that AT&T is quickly alerted to any fraudulent practices that occur while its customers are overseas,” (D.09-05-004, p. 5.) The settlement, which the Commission has found to be in the public interest and have numerous innovative benefits to consumers and the company, would not have been achieved but for UCAN filing this proceeding, and providing its legal and technical expertise to the final settlement.</p>	<p>D.09-05-004, p. 2, p. 5, p. 8</p>	<p>Yes</p>

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

	Claimant	CPUC Verified
a. Was DRA a party to the proceeding?	No	Yes
b. Were there other parties to the proceeding?	No	Yes

PART III: REASONABLENESS OF REQUESTED COMPENSATION
(completed by Claimant except where indicated)

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
UCAN's participation in this case and creative solutions in the Settlement Agreement provides several benefits for both existing and future AT&T customers. (D.09-05-004, p. 5.) Under the settlement agreement, AT&T agrees to implement the innovative tools developed by the parties to allow customers to affirmatively manage their International Roaming service. (D.09-05-004, p. 5.) These benefits include notifications and processes to block international roaming. (D.09-05-004, p. 5.) These enhancements are also beneficial to customers who are unaware of International Roaming and what the feature contains. (D.09-05-004, p. 9.) The settlement has an impact on every AT&T Mobility customer, improving the notice and fraud protection services provided to each customer. The settlement was crafted by UCAN and AT&T to reduce the harm caused by international roaming fraud on consumers, and improve customer information. As UCAN was the party that filed the complaint, and UCAN engaged with AT&T extensively to discover the best solution to the issues presented, the benefits of the settlement were necessarily a result of UCAN's efforts.	After the disallowances we make to this claim, the remainder of UCAN's hours and costs are reasonable.

B. Specific Claim:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate	Total \$	Year	Hours	Rate \$	Total \$
Art Neill	2007	104.65	155	D.08-12-055	16,220.75	2007	104.65	155	16,220.75
Art Neill	2008	218.50	160	D.08-12-055	34,960.00	2008	218.50	160	34,960.00
Art Neill	2009	5.50	160	Equal to 2008 adopted rate	880.00	2009	5.50	160	880.00
Michael Shames	2007	5.50	320	D.08-12-055	1,760.00	2007	5.50	320	1,760.00

Michael Shames	2008	22.10	330	Equal to 2007 rate plus 3% COLA-adopted here	7,293.00	2008	21.50	330	7,095.00	
Michael Shames	2009	1.70	330.00	Equal to 2008 rate-adopted here	561.00	2009	1.70	330.00	561.00	
Subtotal:					\$61,674.75	Subtotal: \$61,436.75				
EXPERT FEES										
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$	
Norman Chaffee	2008	31.86	175.00	See Attachment 4-rate adopted here	5,575	2008	31.86	175.00	5,575	
Subtotal:					\$5,575	Subtotal: \$5,575				
OTHER FEES- Travel (1/2 rate)										
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$	
Art Neill	2007	7.80	77.50	D.08-12-055	604.50	2007	7.80	77.50	604.50	
Art Neill	2008	15.60	80.00	D.08-12-055	1,248.00	2008	15.60	80.00	1,248.00	
Michael Shames	2008	7.80	165.00	Equal to 2007 rate plus 3% COLA-adopted here	1,287.00	2008	7.80	165.00	1,287.00	
Norm Chaffee	2008	15.00	100.00	See Attachment 4-rate adopted here	1,500.00	2008	15.00	87.50	1,312.50	
Subtotal:					\$4,639.50	Subtotal: \$4,452.00				
INTERVENOR COMPENSATION CLAIM PREPARATION (1/2 rate)										
Item	Year	Hours	Rate \$	Basis for Rate	Total \$	Year	Hours	Rate \$	Total \$	
Art Neill	2009	3.00	80.00	Equal to 2008 adopted rate	240.00	2009	3.00	80.00	240.00	
Michael Shames	2009	1.00	165.00	Equal to 2008 rate adopted here	165.00	2009	1.00	165.00	165.00	
Subtotal:					\$405.00	Subtotal: \$405.00				
COSTS										
#	Item	Detail			Amount \$	Amount \$				
1	Travel Costs	Lodging, Transportation, Parking and Meals related to non-routine travel			1,610.40	1,381.50				
Subtotal:					\$1,610.40	Subtotal: 1,381.50				
TOTAL REQUEST \$:					73,904.65	TOTAL AWARD \$:				\$73,250.75

C. Attachments or Comments Documenting Specific Claim:

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	Art Neill hours
3	Michael Shames hours
4	Qualifications of Expert Norman Chaffee
5	Expert Norman Chaffee hours
6	Travel Costs
7	Travel Receipts

D. CPUC Adoptions and Disallowances:

Item	Reason
2008 hourly rate for Norm Chaffee	The Commission has not previously adopted rate for Norm Chaffee. Chaffee has over 20 years of experience managing telecommunications software development and operations in technical areas including switching systems, wireless systems operations support systems and access systems. He has managed technical product development for international markets, provided customer support in international markets and managed sizeable development efforts in France, the United Kingdom, and India. He is an expert in software architecture, engineering development and support. Chaffee has directed Software and Hardware developments, which typically staffed between 125-325 engineers. Chaffee holds a Ph.D. in Computer Science from Pennsylvania State University. UCAN's requested hourly rate of \$175 for Chaffee's participation in this proceeding is reasonable given an individual with his expertise, background and training and we adopt this rate here.
2008 hourly rate for travel for Norm Chaffee	We adopt an hourly rate of \$175 for Chaffee's work here. As such, we approve an hourly rate of ½ this amount for travel.
2008/2009 hourly rates for Michael Shames	UCAN requests an hourly rate of \$330 for Shames's 2008 work. We previously adopted a rate of \$310 for his work in 2007. This new hourly rate request equals his 2007 rate, in addition to a 3% COLA, which is reasonable. We adopt this rate here. We then apply this same rate to Shames's 2009 work, pursuant to ALJ 235, which disallows COLA increases for 2009 intervenor work.
2009 hourly rate for Art Neill	Pursuant to ALJ 235, which disallows COLA increase for 2009 intervenor work, we apply Neill's previously adopted rate of \$160 in 2008 to compute compensation for his 2009 work.

Costs	We approve all travel related costs excluding UCAN’s request for meals (reduced \$56.70), which are disallowed, and for ground transportation (BART and Taxi and parking expenses), totaling \$172.20, because UCAN failed to provide the necessary receipts to justify its ground transportation expenses. All totaled, we disallow \$228.90 from UCAN’s claimed costs.
2008-Shames	We disallow .60 hrs. for Shame for meeting times recorded on 3/19/08 and 10/08/08 to equal the same time logged by other meeting participants for this same activity.
2008-Neill	We disallow .25 hrs. for Neill for meeting time logged on 9/5/08 to equal the same time logged by other meeting participants for this same activity.

PART IV: OPPOSITIONS AND COMMENTS

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

FINDINGS OF FACT

1. Claimant has made a substantial contribution to Decision 09-05-004.
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 \$73,250.75.

CONCLUSION OF LAW

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

ORDER

1. Claimant is awarded \$73,250.75.
2. Within 30 days of the effective date of this decision, New Cingular Wireless PCS, LLC and its Wireless Affiliates (AT&T) shall pay claimant the total award. 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 September 15, 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 is closed.
5. This decision is effective today.

Dated November 20, 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:	D0911026	Modifies Decision? N
Contribution Decision(s):	D0905004	
Proceeding(s):	C0708033	
Author:	ALJ Walwyn	
Payer(s):	New Cingular Wireless PCS, LLC and its Wireless Affiliates (AT&T)	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Utility Consumers' Action Network	07-02-09	\$73,904.65	\$73,250.75	No	adjusted travel rate; disallowance of meals; unjustified expenses; excessive hours

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Art	Neill	Attorney	Utility Consumers' Action Network	\$155	2007	\$155
Art	Neill	Attorney	Utility Consumers' Action Network	\$160	2008	\$160
Art	Neill	Attorney	Utility Consumers' Action Network	\$160	2009	\$160
Michael	Shames	Attorney	Utility Consumers' Action Network	\$320	2007	\$320
Michael	Shames	Attorney	Utility Consumers' Action Network	\$330	2008	\$330
Michael	Shames	Attorney	Utility Consumers' Action Network	\$330	2009	\$330
Norman	Chaffee	Expert	Utility Consumers' Action Network	\$175	2008	\$175

(END OF APPENDIX)