ALJ/MAB/tcg **Date of Issuance 4/15/2011**

Decision 11-04-029 April 14, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking on the Commission's own Motion to review the telecommunications public policy programs.	Rulemaking 06-05-028 (Filed May 25, 2006)

DECISION AWARDING INTERVENOR COMPENSATION TO THE GREENLINING INSTITUTE FOR SUBSTANTIAL CONTRIBUTION TO DECISION 10-11-033

Claimant: The Greenlining Institute	**For contribution to Decision (D.) 10-11-033**
Claimed: $16,753.25[1]	**Awarded: $13,905.75 (reduced 17%)**
Assigned Commissioner: Michael R. Peevey	**Assigned ALJ: Maribeth A. Bushey**

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision: Among other things, the Decision de-links LifeLine from AT&T's basic rate; establishes a Set Support Amount of 55 percent of the highest basic rate among carriers of last resort (COLR); caps the current LifeLine rate at $6.84 for two years; allows wireless and VoIP carriers to participate; opens a Phase II to consider changes needed to accommodate non-traditional carriers; and eliminates excess administrative and other payments to carriers.

[1] Greenlining incorrectly totals its claim at $9,299.75. We assume this is an error, since Greenlining outlines no voluntary reductions in its claim. We use the corrected total of $16,753.25 based on our review of Greenlining's timesheets.

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

	Claimant	CPUC Verified
Timely filing of Notice of Intent (NOI) to claim compensation (§ 1804(a)):		
1. Date of Prehearing Conference:	N/A	Correct
2. Other Specified Date for NOI:	Aug. 11, 2006	Correct
3. Date NOI Filed:	Sept. 8, 2006	Correct
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.06-05-028	Correct
6. Date of ALJ ruling:	Oct. 17, 2006	Correct
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.06-05-028	Correct
10. Date of ALJ ruling:	Oct. 17, 2006	Correct
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.10-11-033	Correct
14. Date of Issuance of Final Decision:	November 23, 2010	Correct
15. File date of compensation request:	January 20, 2010	Correct
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
4	X		Greenlining's NOI was filed late, accompanied by a motion for acceptance of late filing. No party opposed the motion. In a ruling dated October 17, 2006, ALJ Bushey found that Greenlining had shown good cause, granted its request to late file its NOI, and deemed the NOI timely. (Administrative Law Judge's Ruling on Notices of Intent to Claim Compensation, p. 2.)

PART II: SUBSTANTIAL CONTRIBUTION

A. Claimant's description of its claimed contribution to the final decision:

Contribution	Citation to Decision or Record	Showing Accepted by CPUC
A. Need for Wireless Lifeline		
Greenlining advocated for an affordable wireless option throughout the proceeding, and for the mechanisms necessary to effectuate the wireless option. *See* Opening Comments on the 2009 Proposed Decision (2009 Opening Comments) at 2-3; Reply Comments on the 2009 Proposed Decision (2009 Reply Comments) at 7-8; Opening Comments on the 2010 Proposed Decision (2010 Opening Comments) at 6-7.	D.10-11-33 (Decision) opens the option of applying the LifeLine subsidy to wireless service, and structured the new subsidy as a Specific Support Amount in large part because it affords flexibility to apply the funds to nontraditional service providers, including wireless. *See* p. 49, § 5.2 generally. The Decision noted that Greenlining has, from the outset of this phase in 2007, supported the inclusion of wireless options in LifeLine. *See* pp. 22, 68, 107-8.	We agree with Greenlining's contribution as it outlines here.
Greenlining submitted that any wireless option must provide appropriate and quality service to LifeLine customers, and that the Commission must be allowed to proffer guidelines to non-traditional carriers in order to ensure that the service they provide is of suitable quality. *See* 2010 Reply Comments at 4-6.	In introducing the wireless option, the Decision is clear in stating that technological neutrality still maintains a basic service definition that all types of carriers must meet. *See* pp. 67-8.	
Greenlining advocated for a series of workshops on the several issues raised thus far regarding the potential for wireless LifeLine. *See* Reply Comments at 8. Greenlining cautioned, however, that the program should not be changed unless the changes result in viable non-traditional options actually	The Decision defers the details of how to implement LifeLine for non-traditional carriers to a Phase II of the instant proceeding. Phase II will include workshops to cover a variety of identified topics. *See* pp. 69-70, 103, 104-5.	

becoming available to consumers. Greenlining further noted that it could not support changes that were not likely to achieve this result. *See* 2009 Reply Comments at 3-4.		
B. Need for Affordability, Mechanism to Maintain Greenlining consistently advocated that LifeLine service must remain objectively affordable, especially after full price deregulation. Greenlining further advocated for a price cap of no greater than the then-current LifeLine rate, with annual increases no greater than those permitted in AB1X, to ensure that LifeLine rates remain objectively affordable. *See* 2009 Opening Comments at 5-6; 2009 Reply Comments at 4-5; 2010 Opening Comments at 2-5. Greenlining also supported the suggestion of other parties that the rate be set but adjustable with the rate of inflation, as a means of maintaining objective affordability. *See* 2010 Reply Comments at 2. Greenlining also noted that it is impossible to predict the effect of full price deregulation on LifeLine rates, and as such argued that any change that would increase LifeLine rates should be deferred until after full price deregulation and an affordability study in a deregulated environment. Greenlining further submitted that the affordability study planned for 2009-2010 would be ill-timed with respect to both the Decision's proposed changes and the pending impact of deregulation. *See* 2009 Opening Comments at 7-9; 2010 Reply Comments at 1-2.	While the Decision did not adopt the specific price cap Greenlining recommended, it did institute a cap of no more than half the carrier's basic rate, thus ensuring some measure of objective affordability over time. *See* pp. 44-46, 52, 107, and 114-15. Additionally, the Decision caps the end price for LifeLine service at $6.84 through December 31, 2012, ensuring a price comparable to today's LifeLine price for the next two years. *See* p. 54.	We agree with Greenlining's contribution as it outlines here.

Greenlining advocated for an affordability study in 2011-2012, after price de-regulation that would include public participation hearings or another comparable open forum for customer input. *See* 2009 Opening Comments at 9-10. Greenlining further cautioned that the Commission must protect consumers against geographical price disparities, and carrier price disparities. *See* 2009 Opening Comments at 6.	While the Commission did not adopt Greenlining's suggestion and conduct an affordability study after full deregulation, it did conduct a study in 2010 and considered its findings extensively in its analysis and Decision. *See* pp. 35-9.	
C. Need for Consumer Protections; Bundled Services Greenlining noted that many LifeLine customers may not be familiar with wireless service packages, and with the ability to bundle various services into a single package many may experience bill shock as they realize they signed up for services they neither wanted nor could afford. *See* 2010 Opening Comments at 9. Greenlining advocated that, in order to prevent customer confusion and to maintain consistency for financially vulnerable households, the LifeLine price should not change more than once annually. *See* 2010 Reply Comments at 2-3.	The Decision instructed that Phase II of this proceeding consider what kinds of consumer information LifeLine customers will need, especially around use of wireless handsets and wireless services. *See* pp. 103-5, 108, and 115. The Decision mandated that each carrier's LifeLine price must not change more than once annually. *See* pp. 47-48.	We agree with Greenlining's contribution as it outlines here.
D. Lifeline Participant Eligibility Guidelines Greenlining supported the 2009 Proposed Decision's adjustment to the LifeLine income eligibility threshold, to match CARE's at 200% of the federal poverty level, because it would allow more households to benefit and would streamline	While the Decision declined to raise the income eligibility threshold to 200% of the federal poverty level, it did consider the reasons submitted by Greenlining, among others, in support of this proposal – coordination between	We agree with Greenlining's contribution as it outlines here.

outreach for the two programs. *See* 2009 Opening Comments at 12; 2010 Opening Comments at 7-8. Greenlining further advocated for a combined application for the two programs, to facilitate continuity of enrollment and maximum program penetration. *See* 2009 Opening Comments at 12.	assistance programs, streamlined marketing and outreach, etc. While the Commission ultimately elected to leave the threshold where it is, the input provided by Greenlining clearly factored into the Commission's analysis. *See* pp. 80-82, 108.	
E. Utility Administrative Costs Greenlining supported the 2010 Proposed Decision in limiting reimbursement of carrier administrative costs must be limited in order to contain the cost of the program and keep rates low for enrolled customers. *See* 2010 Reply Comments at 3.	Noting that other aspects of the Decision streamline LifeLine administration for carriers, the Decision placed limits on the amount of administrative reimbursement that will be available to carriers. *See* pp. 85-6, and § 5.5.3.	Yes
F. Need for Consumer Education Greenlining submitted that a new model for LifeLine, along with new options with which customers may not be familiar, will require renewed consumer education efforts in order to prevent customers from incurring unintended costs or selecting a service that does not meet their needs. *See* 2009 Opening Comments at 4-5; 2010 Opening Comments at 8-9; 2010 Reply Comments at 6-7. Greenlining urged that the costs associated with increased outreach and education efforts must be taken into consideration in the Commission's analysis. *See* 2009 Reply Comments at 5-6. Greenlining further submitted that community based organizations (CBOs) are trusted institutions that must play a central role in consumer education, particularly in low-income	The Decision agreed that consumer education would be necessary in advance of, and following, the upcoming program changes, and directed staff to convene workshops and a process for stakeholder involvement in designing education programs. *See* pp. 101-02.	We agree with Greenlining's contribution as it outlines here.

communities and with customers who speak limited or no English. *See* 2009 Opening Comments at 4-5; 2010 Opening Comments at 9.		

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

	Claimant	CPUC Verified
a. Was Division of Ratepayers Advocates (DRA) a party to the proceeding?	Yes	Correct
b. Were there other parties to the proceeding?	Yes	Correct
c. If so, provide names of other parties: Verizon, Verizon Wireless, AT&T California, Cox Communications, Comcast Phone of California, Calaveras/Surewest Telephone, Cricket Communications, Sprint Nextel, T-Mobile/Omnipoint Communications, Cingular Wireless, The Small LECs/Surewest Telephone/Surewest Televideo, Frontier Telecommunications of California, The Utility Reform Network, California Community Technology Policy Group, World Institute on Disability, Disability Rights Advocates, Butte County Office of Education, Assistive Technology Law Center, National Consumer Law Center, Corporation for Education Network Initiatives in California, Telecommunication Access for the Deaf & Disabled Administrative Committee, California Payphone Association, California Center for Law and the Deaf, The Equipment Program Advisory Committee, Latino Issues Forum.		Correct
d. Claimant's description of how it coordinated with DRA and other parties to avoid duplication or how claimant's participation supplemented, complemented, or contributed to that of another party: Greenlining coordinated with the Division of Ratepayer Advocates and with other consumer advocates to ensure that our efforts were not duplicated. Where our issues overlapped, we sought to coordinate strategies to minimize duplication and maximize efficacy. Greenlining also kept in contact with TURN and with AT&T throughout the proceeding to identify possible areas of agreement. Additionally, Greenlining's position was something of an outlier in this proceeding. For example, Greenlining was more in favor of policies that would allow expanding Lifeline to include wireless than other consumer groups were, speaking on an overall basis. In such instances it is clear that Greenlining's advocacy did not duplicate the efforts of others.		Greenlining's claim of coordination with other parties to avoid duplication is supported by its timesheets. We make no reduction here for duplication of effort.

C. Greenlining's Additional Comments on Part II:

#	Claimant	CPUC	Comment
Part II(A)	X		As noted above, the Commission chose not to adopt certain aspects of Greenlining's position. Even where the Commission did not ultimately agree with Greenlining's position, the availability of alternatives for consideration provided a fuller, robust debate on the issues at hand. This range of options and perspectives allows the Commission to reach a sound, well reasoned decision, and thus constitutes a substantial contribution to the record and the decision-making process.

PART III: REASONABLENESS OF REQUESTED

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

Claimant's explanation as to how the cost of claimant's participation bore a reasonable relationship with benefits realized through claimant's participation	CPUC Verified
It is difficult to assign a precise dollar value to Greenlining's participation, as well as to the savings customers will experience as a result of this Decision. Potentially tens of thousands of low-income households who are paying full price for a wireless phone because it is the solution best suited to their needs will see substantial savings as a result of allowing LifeLine discounts to be applied to wireless service. It is difficult to quantify that savings without knowing what the wireless LifeLine price will end up being, or how many customers will choose wireless LifeLine, but it's certain to exceed the cost of Greenlining's participation. Further, the 2-year price cap on wireline LifeLine service will certainly result in savings for low income households. However, without knowing at this time what will happen to basic service prices in a de-regulated environment, it is impossible to quantify that savings. Given the relatively low dollar figure associated with Greenlining's participation, it seems reasonable to assume that the savings associated with this and other provisions of the Decision to which Greenlining contributed will exceed Greenlining's cost of participation.	After the reductions we make to Greenlining's claim, the remaining hours are reasonable and should be compensated.

A. Specific Claim:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Year**	**Hours**	**Rate $**	**Total $**
S. Chen	2009	45.5	125	D.10-10-013	5,687.50	2009	39.8	125	4,975.00
S. Chen	2010	1.7	185	D.10-11-029	314.50	2010	1.7	185	314.50
S. Kang	2009	3.9	190	D.10-05-010	741.00	2009	3.9	190	741.00
E. Gallardo	2010	27.2	350	D.10-11-029	9,520.00	2010	21.1	350	7,385.00
					Subtotal: $16,263.00				***Subtotal: $13,415.50***
INTERVENOR COMPENSATION CLAIM PREPARATION *									
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Year**	**Hours**	**Rate $**	**Total $**
S. Chen	2010	5.3	92.50	D.10-11-029	490.25	2010	5.3	92.50	490.25
					Subtotal: $490.25				***Subtotal: $490.25***
					TOTAL REQUEST: $16,753.25				**TOTAL AWARD: $13,905.75**

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

We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

B. CPUC Disallowances & Adjustments:

Item	Reason
2009-Chen hours	Chen logs a total of 8.2 hours spanning a period of three days for "reading reply comments of other parties." We find this time to be excessive. This same task was accomplished by two other intervenors in this proceeding in an average of 2.5 hours. We approve this amount for Chen's time on this task and disallow the remaining 5.7 hours.
2010-Gallardo Hours	Gallardo logs 2.5 hours for "reviewing previous Greenlining filings." We have compensated herein the efforts of Chen and Kang for preparing and reviewing these same documents. As such, we disallow this time for Gallardo. Gallardo logs 5.9 hours for "reviewing parties' opening comments on the proposed decision." We find this time to be excessive. This same task was accomplished by

	two other intervenors in this proceeding in an average of 2 hours. We approve this amount for Gallardo's time on this task and disallow the remaining 3.9 hours.

PART IV: OPPOSITIONS AND COMMENTS

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

FINDINGS OF FACT

1. Claimant has made a substantial contribution to Decision 10-11-033.
2. The claimed fees, 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 $13,905.75.

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 $13,905,75.
2. Within 30 days of the effective date of this decision, the CPUC Intervenor Compensation Fund 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 April 5, 2011, 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.

This decision is effective today.

Dated April 14, 2011, at San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
CATHERINE J.K. SANDOVAL
MARK FERRON
Commissioners

I abstain.

/s/ MICHEL PETER FLORIO
Commissioner

APPENDIX

Compensation Decision Summary Information

Compensation Decision:	D1104029	**Modifies Decision?** No
Contribution Decision:	D1011033	
Proceeding:	R0605028	
Author:	ALJ Maribeth A. Bushey	
Payer:	The CPUC Intervenor Compensation Fund	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Greenlining Institute	01-20-11	$16,753.25	$13,905.75	No	duplication of effort; excessive hours; adjusted hourly rates equal to paralegal vs. professional rates.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Stephanie	Chen	Attorney	The Greenlining Institute	$125	2009	$125
Stephanie	Chen	Attorney	The Greenlining Institute	$185	2010	$185
Samuel	Kang	Attorney	The Greenlining Institute	$190	2009	$190
Enrique	Gallardo	Attorney	The Greenlining Institute	$350	2010	$350

(END OF APPENDIX)