

Decision 11-07-024 July 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 DISABILITY RIGHTS
ADVOCATES FOR SUBSTANTIAL CONTRIBUTION TO
DECISIONS 10-11-033 AND 08-06-020**

Claimant: Disability Rights Advocates	For contribution to D.10-11-033 and D.08-06-020
Claimed: \$136,520.25 ¹	Awarded: \$123,017.15 (reduced 10%)
Assigned Commissioner: Michael R. Peevey	Assigned ALJ: Maribeth A. Bushey

PART I: PROCEDURAL ISSUES

- A. Brief Description of Decision:**
- D.10-11-033:** Adopts forward looking modifications to California Lifeline in compliance with the Moore Universal Telephone Service Act.
- D.08-06-020:** Interim Decision Addressing California Teleconnect Fund, Payphone Enforcement and Public Policy Payphone Programs, and the Deaf and Disabled Telecommunications Program.

- B. Claimant must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:**

Claimant		CPUC Verified
Timely filing of notice of intent to claim compensation (§ 1804(a)):		
1. Date of Prehearing Conference:	N/A	Correct
2. Other Specified Date for NOI:	August 11, 2006 (specified in ALJ Ruling on July 20, 2006)	Correct
3. Date NOI Filed:	August 11, 2006	Correct

¹ See footnotes 3 and 4.

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:	October 16, 2006	October 17, 2006
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:	October 16, 2006	October 17, 2006
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 and D.08-06-020	Correct
14. Date of Issuance of Final Decision:	November 23, 2010 and June 16, 2008	Correct
15. File date of compensation request:	January 24, 2011	Correct
16. Was the request for compensation timely?		Yes

PART II: SUBSTANTIAL CONTRIBUTION

A. Claimant’s claimed contribution to the final decision:

Contribution	Citation to Decision or Record	Showing Accepted by CPUC
<p><u>Overview:</u></p> <p>Working in conjunction with the other consumer groups and other disability groups as appropriate, Disability Rights Advocates (DisabRA) made substantial contributions to each of the decisions issued in R.06-05-028 through its ongoing participation in the lengthy review of the Lifeline program and other public policy programs. Throughout the review of</p>	<p><i>See generally all comments filed by DisabRA</i></p>	<p>Correct</p>

<p>Lifeline which was the primary focus of the proceeding, DisabRA addressed the unique perspective of the disability community, which is disproportionately low income and thus highly dependent on the Lifeline program for telecommunications. By bringing this perspective to the discussion, including information regarding the specific needs of this vulnerable customer class, DisabRA enhanced the record and ensured that a broad array of issues were given due consideration. Decision No. 10-11-033 (Final Decision) notes that the goal of this Rulemaking was to reform LifeLine in a way that will continue its “universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications services to all Californians.” Final Decision at 34. DisabRA’s ongoing contributions ensured that the Commission’s decision gave due consideration to the needs of low-income Californians with disabilities who rely on Lifeline and other public purpose programs for basic safety and access. DisabRA’s specific contributions are articulated in detail below.</p> <p>In addition to DisabRA’s substantial contributions to the modifications to Lifeline, DisabRA also made substantial contributions to D.08-08-020, the Interim Decision Addressing California Teleconnect Fund, Payphone Enforcement and Public Policy Payphone Programs, and the Deaf and Disabled Telecommunications Program (Interim Decision). DisabRA’s contributions to this earlier decision are also set forth in detail below.</p>		
---	--	--

<p><u>SSA and 2-Year Freeze of Lifeline Rate:</u></p> <p>DisabRA, in conjunction with other consumer groups, expressed concern about a change in the Lifeline benefit to a set support amount, including concern that such a shift would impact the affordability of telecommunications services and the concern that the substantial number of changes to the program that have taken place in recent years have caused confusion to consumers, and another substantial change would be disruptive. DisabRA and the other consumers urged repeated stability for the program. <i>See, e.g.</i> “Comments Of The Utility Reform Network, The National Consumer Law Center, And Disability Rights Advocates On The Assigned Commissioner’s Ruling Reopening The Record And Setting Filing Date For Comments On Lifeline Program In Light Of Transition Plan For Basic Service Rates” filed on October 3, 2008, at 14-15; Opening Comments of Disability Rights Advocates And The National Consumer Law Center On the Proposed Decision of Commissioner Bohn filed on October 18, 2010 (2010 Opening Comments) at 1-3.</p> <p>Moreover, the Revised Proposed Decision of Commissioner Chong, which was issued on April 3, 2009, would have initiated an SSA as of January 1, 2010, while the initial draft of the proposed decision, issued on February 11, 2009, would have instituted an SSA on July 1, 2009. DisabRA, together with other consumer groups, opposed the Chong PD, noting that it tried to do too much, too quickly, Reply Comments of National Consumer Law Center and Disability Rights Advocates on Commissioner Chong’s Revised Proposed Decision filed on April 13, 2009 (2009 Reply Comments”), at 1-4. Eventually, the PD</p>	<p>While adopting a set support amount, D.10-11-033 caps customer charges at current rates for two years; this is done to provide an orderly transition period for customers, who will not see any visible change to the program until 2013. Final Decision at 56-57 and at 140 (OP 15); <i>see also</i> Concurrence of Commissioner Dian M. Grueneich (specifically noting that the cap is intended to provide a rate freeze for Lifeline customers as a way to safeguard the needs of the low income community). This is a substantial modification to the initial proposed decision, which would have instituted the SSA in July of 2011.</p> <p><i>See also</i> Proposed Decision of Commissioner Chong, issued on February 11, 2009 at 136 (ordering paragraph 3) and Revised Proposed Decision of Commissioner Chong, issued on April 3, 2009 at 140 (ordering paragraph 3).</p>	<p>Correct</p>
--	--	----------------

<p>was withdrawn. Thus, the effective date for implementation of an SSA has continually been delayed from mid-2009 to 2010, to 2011, and now to 2013.</p>		
<p><u>Single Annual Adjustment of Lifeline Rate:</u></p> <p>While the carriers sought permission to make real time adjustments to the Lifeline rate within a SSA environment, DisabRA and the other consumers argued that the annual freeze of the Lifeline rate is vital. Reply Comments of the Utility Reform Network, National Consumer Law Center and Disability Rights Advocates on the Proposed Decision of Commissioner Bohn filed on October 25, 2010 (2010 Reply Comments), at 2-4. Such an annual freeze gives customers certainty and predictability, allowing them to budget their money appropriately.</p>	<p>The final decision makes clear that carriers are only permitted to adjust their lifeline rates on time per year. Final Decision at 56.</p>	<p>Correct</p>
<p><u>Affordability/Affordability Study:</u></p> <p>DisabRA, along with other consumer groups, consistently advocated that the Commission focus on affordability in considering any changes to the Lifeline program. <i>See, e.g.</i> Comments Of The Utility Reform Network, National Consumer Law Center, And Disability Rights Advocates On the Interim Decision Addressing California Teleconnect Fund, Payphone Enforcement And Public Policy Payphone Programs, And The Deaf And Disabled Telecommunications Program filed on June 2, 2008 (2008 Opening Comments) at 6-12, 2010 Opening Comments at 9-10.</p> <p>DisabRA believed that an affordability study should be completed and considered prior to making structural changes to the program. 2009 Reply Comments at 3.</p>	<p>The final decision repeatedly notes the need to ensure affordability. Final Decision at 34-39 (noting that the purpose of the proceeding is to reform Lifeline in a way that would assure the “continued affordability” of telecommunications service and describing the changes to the program as the means to “best ensure consumers in California have affordable access to the communication service of their choosing”).</p> <p>While DisabRA has concerns regarding the affordability study that was conducted, including due process concerns regarding the timing of the release of the study and the proposed decision, the Commission did agree that it</p>	<p>Correct</p>

	<p>was necessary to examine affordability of the Lifeline program as part of its considerations in making changes to the program structure.</p> <p>Additionally, by freezing rates for Lifeline customers until 2013, (and delaying implementation of an SSA multiple times from the first initial proposed date of July, 2009, the Commission has repeatedly acted to ensure ongoing affordability for customers. <i>See</i> Final Decision at 54, <i>see also</i> Proposed Decision of Commissioner Chong, issued on February 11, 2009 at 136 (ordering paragraph 3) and Revised Proposed Decision of Commissioner Chong, issued on April 3, 2009 at 140 (ordering paragraph 3).</p>	
<p><u>Payment of Taxes and Fees:</u></p> <p>DisabRA, in conjunction with the other consumer groups, argued that the proposed decision’s plan to charge taxes and fees to Lifeline customers who do not currently pay such charges will be viewed as an increase in the cost of the program, and would harm the affordability of Lifeline Service. 2010 Reply Comments at 9.</p>	<p>The final decision continues the existing practice of exempting Lifeline customers from paying various taxes and fees. These charges are claimed by carriers from the fund and passed through to respective taxing authorities. Final Decision at 62. This is a substantial change from the proposed decision, which would have required Lifeline customers to pay taxes and fees. Proposed Decision of Commissioner Bohn, issued on September 28, 2010 at 61.</p>	<p>Correct</p>
<p><u>Administrative Costs and Bad Debt:</u></p> <p>DisabRA, in conjunction with the other consumers, supported the proposed decision’s limitations on reimbursement</p>	<p>The final decision places limits on the amount of administrative costs for which carriers can be</p>	<p>Correct</p>

<p>of administrative costs and supported the PD’s finding that bad debt is a cost of doing business in a competitive environment. 2010 Reply Comments at 7-8. These are mechanisms that will help reduce the size of the fund without affecting the program’s benefits to consumers.</p>	<p>reimbursed, including a decision to decline to reimburse carriers who do not become federal ETCs. Final Decision at 85-86 and 93-96.</p>	
<p><u>Bill Transparency:</u> DisabRA/NCLC argued in support of the proposed decision’s requirements for billing transparency, noting that Lifeline customers “will be able to make better choices in the marketplace if they clearly understand the impact of the Lifeline discount on carrier rates. 2010 Reply Comments at 9-10.</p>	<p>While providing some additional flexibility for carriers relative to the proposed decision, the final decision notes that “California LifeLine customers should have transparency in understanding the benefits they are receiving and carriers should adjust their bills to reflect not only the resulting LifeLine rate but also the starting point of the discount, the Specific Support Amount credit and the starting point and the credit for connection and conversions.” Final Decision at 63.</p>	<p>Correct</p>
<p><u>Expanded Eligibility:</u> DisabRA, along with NCLC, argued that the eligibility criteria for LifeLine should be expanded to match to the criteria used for CARE eligibility, especially given California’s current economic crisis. DisabRA/NCLC also argued that this would increase effectiveness and efficiency for outreach efforts and coordinated enrollment. 2010 Opening Comments at 10-11.</p>	<p>While the final decision declined to expand eligibility for Lifeline to match CARE, noting that the current CARE eligibility guidelines are temporary, it acknowledged the need for coordination between the programs; it further encouraged the “Energy Division and Communications Division staff to continue to work on a comprehensive approach to align the qualification and participation processes for both programs.” Final Decision at 82.</p>	<p>Correct</p>

<p><u>Protection for Customers Purchasing Bundled Service:</u></p> <p>DisabRA and NCLC expressed concern that customers who purchased bundled service and were unable to pay their entire bill might be disconnected. 2010 Opening Comments at 22-23.</p>	<p>The final decision clarifies that carriers may not disconnect customers for failure to pay non-Lifeline-related charges. Final Decision at 59.</p>	<p>Correct</p>
<p><u>Implementation Workshops:</u></p> <p>DisabRA and NCLC noted the complexity of issues to be addressed through changes to GO 153 in order to move to an SSA and to permit non-traditional carriers to participate in Lifeline. <i>See e.g.</i> 2010 Opening Comments at 13-14. While not the process preferred by consumers, the Commission’s resolution process will still allow for additional input to ease the transition for consumers.</p>	<p>The final decision continues to rely on workshops to address necessary implementation issues, including modifications to GO 153. Final Decision at 102. Based on the workshops, any changes will be considered via a Commission resolution. Final Decision at 102. While the plan for Phase I workshops was not modified between the proposed decision and the final decision, the freeze on Lifeline rates means that the implementation issues can be resolved before customers see any changes to the program. Additionally, the delay in Phase 2 until after a decision addressing the definition of basic service (<i>See</i> below regarding non-traditional carriers) means that it is likely that no non-traditional carriers will seek to participate in the program prior to the adoption of changes to the GO.</p>	<p>Correct</p>
<p><u>Consumer Education:</u></p> <p>Throughout the proceeding, DisabRA has stressed the importance of effective consumer education to assist customers through still more changes to the Lifeline program. <i>See e.g.</i> 2009 Opening Comments at 11-12; 2010 Reply Comments at 10 when the proposed decision planned to address consumer</p>	<p>While the final decision did not change the proposed decision’s plan to address consumer education through workshops, the two-year freeze on Lifeline rates ensures that consumer education can take place in advance of changes to the</p>	<p>Correct</p>

<p>education through workshops, to be held shortly after a final decision, DisabRA noted that the proposed workshop schedule was short, and that overlapping workshops on multiple issues would limit the ability of participants to give the attention necessary to the issue of consumer education. DisabRA further argued that the proposal did not provide for an effective and appropriate transition to the revised program. 2010 Opening Comments at 7-8.</p>	<p>program that will be visible to the consumers. Final Decision at 140, 143 (OP 15 ensures that customers will not see rate change until 2013; OP 33 sets schedule for consumer education workshops). In addition, the final decision eases the pressure of multiple, simultaneous workshop processes by deferring the Phase 2 workshops until after a final decision addressing the definition of basic service is issued in the HCF-B proceeding. (Compare OP 45 in proposed decision, setting workshop on issues regarding non-traditional carriers to be held within 45 days of effective decision, with OP 46 in the final decision, requiring a workshop on issues regarding non-traditional carriers to be set within 45 days of a final decision being issued in R.09-06-019). By ensuring that education can take place before customers see changes and by setting a schedule that enhances intervenors' ability to participate; some of the concerns raised by DisabRA are reduced.</p>	
<p><u>Non-Traditional Carriers:</u></p> <p>DisabRA argued that non-traditional carriers cannot participate in Lifeline until after any anticipated changes to the definition of basic service are completed. 2010 Comments at 12. DisabRA further noted the need to coordinate any effort to address participation by non-traditional carriers with the redefinition of basic service being considered in R.09-06-019. 2010 Reply Comments at 5.</p> <p>Prior to the final comment cycle, DisabRA actively contributed to the</p>	<p>While the final decision maintains that non-traditional carriers are eligible to participate in Lifeline immediately if they meet all current requirements, including the current definition of basic service, it effectively acknowledges that meaningful participation in Lifeline by non-traditional carriers is dependent on the eventual resolution of the definition of basic service, now pending in the High Cost Fund B</p>	<p>Correct</p>

<p>discussion of extension of the Lifeline program to non-traditional carriers, raising the specific concerns of the disability community while also indicating awareness that low-income customers are already making telecommunication choices that should be given consideration. <i>See e.g.</i> 2010 Opening Comments at 2, 3-5 (summarizing prior submissions by consumers regarding non-traditional wireline). While DisabRA’s overall recommendations were not adopted in the final decision, the information provided for consideration added to the record and allowed more effective analysis by policymakers. This active participation and presentation of information and options constitutes a substantial contribution to the record and the decision-making process.</p>	<p>proceeding. Thus, the final decision delays the workshops and additional efforts to address issues concerning participation of non-traditional carriers in the Lifeline program until a subsequent phase of the proceeding, to begin with workshops set based on the issuance of a final decision in the HCF-B proceeding (R.09-06-19). Final Decision at 103-105.</p> <p>Additionally, the final decision expressly requires Phase 2 to address certain issues raised by DisabRA, including, for example, whether non-traditional carriers may “charge LifeLine customers early termination fees (ETFs)” and “require LifeLine customers to sign service contracts.” Final Decision at 104.</p>	
<p><u>DDTP Expansion:</u></p> <p>DisabRA strongly supported the proposed modifications and expansions to the DDTP program to better serve deaf customers who also qualify for LifeLine. 2010 Opening Comments at 24. Throughout the proceeding, DisabRA supported plans to provide text-based devices and services to deaf consumers who rely on such technology for their telecommunications needs. <i>See e.g.</i> 2009 Opening Comments at 3; 2009 Reply Comments at 7-8.</p>	<p>The final decision confirms that deaf consumers who qualify for both Lifeline and DDTP services “have particular needs that justify a targeted subsidy.” Thus the decision authorizes support for a communication service purchased by DDTP participants and authorizes an eligibility for two Lifeline access lines. Final Decision at 77.</p>	
<p><u>2009 Chong PD</u></p> <p>DisabRA made a significant contribution to the overall proceeding through ensuring that the Commission took several consumer concerns under more thorough consideration in an additional cycle of</p>	<p>The proposed decision of Commissioner Chong was withdrawn and substantial additional review was provided before changes were adopted to</p>	<p>Correct</p>

<p>comments, rather than acting on the Proposed Decision of Commissioner Chong, filed on April 3, 2009. <i>See</i> 2009 Reply Comments at 1-4, noting widespread agreement among the parties that the proposed decision could not be implemented as written and urging the Commission to “stop, regroup, and try again.”</p>	<p>the Lifeline program. Additionally, the timeline for implementing an SSA was substantially delayed from the date initially proposed in the Chong PD.</p>	
<p><u>D.08-06-020</u></p> <p>Prior to the decision modifying the Lifeline program, the Commission issued D.08-06-020, addressing other public policy programs including the California Teleconnect Fund, Payphone Enforcement and Public Policy Payphone Programs, and the Deaf and Disabled Telecommunications Program.</p> <p>DisabRA, in conjunction with TURN and NCLC, contributed to the discussion of the payphone programs by supporting the Commission’s commitment to ensuring continued availability of public pay phones. The consumers argued that such payphones help meet universal service goals by providing access to the network for people who might otherwise be unable to access telecommunications services. 2008 Opening Comments at 2.</p> <p>DisabRA, along with TURN and NCLC, also supported the pilot program to allow offset the cost of wireless equipment for deaf customers. 2008 Opening Comments at 5.</p> <p>Earlier in the proceeding, DisabRA prepared extensive comments, including expert input, regarding the needs of people with disabilities, particularly people who are deaf, to receive telecommunications service that is functionally equivalent to that provided to other customers. This extensive material addressed potential revisions to the DDTP</p>	<p>Interim Decision Addressing California Teleconnect Fund, Payphone Enforcement and Public Policy Payphone Programs, and the Deaf and Disabled Telecommunications Program, R.06-05-028, issued June 16, 2008.</p> <p>While the Commission did not leave open the door to more than 50 payphones, as suggested by the consumers, the Commission required the creation of a new, functional program regarding public payphones. As part of the discussion, it considered the need for service in rural or remote areas as well as low-income communities. Interim Decision at 44-45.</p> <p>The Commission authorized a one-year pilot program with the possibility of extending the program. Interim Decision at 46-47.</p> <p>While the Commission declined to address issues regarding DDTP beyond the pilot program (eventually regularized in the final decision), the information provided by DisabRA contributed to the record and provided insight for</p>	<p>Correct</p>

<p>program, as well as expanded access to wireless services. <i>See</i> Opening Comments of Disability Rights Advocates, filed on July 28, 2006, including supporting testimony by expert Dimitri Belser.</p>	<p>policymakers regarding the needs of an underserved community.</p>	
---	--	--

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

Claimant		CPUC Verified
<p>a. Was Division of Ratepayer Advocates (DRA) a party to the proceeding?</p>	<p>Yes</p>	<p>Yes</p>
<p>b. Were there other parties to the proceeding?</p>	<p>Yes</p>	<p>Yes</p>
<p>c. If so, provide name of other parties: Assistive Technology Law Center, Pacific Bell Telephone Company dba AT&T California, California Cable and Telecommunication Association, California Coalition of Agencies Serving the Deaf and Hard of Hearing, California Communications Access Foundation, California Council of the Blind, California Payphone Association, California Community Technology Policy Group and Latino Issues Forum, Cingular Wireless, Citizens/Frontier Telephone, Cox California, Cricket Communications, Disability Rights Advocates, Equipment Program Advisory Committee, FONES4All, Greenlining Institute, 14 Small Local Exchange Carriers, SureWest Telephone, Telecommunications Access for the Deaf and Disabled Advisory Committee, The Utility Reform Network, the National Consumer Law Center, Verizon California Inc., Verizon Wireless, Winston Ching, and the World Institute on Disability.</p>		<p>Correct</p>
<p>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: Disability Rights Advocates was the only party in this proceeding that represented the unique interests of consumers with various types of disabilities throughout the entirety of this proceeding. Although the World Institute on Disability, the California Council of the Blind, and other disability-oriented organization submitted initial comments in 2006, they did not generally submit anything at any other stage of this proceeding. The Telecommunications Access for the Deaf and Disabled Administrative Committee (TADDAC) submitted comments at several</p>		<p>We agree that DisabRA took reasonable steps to coordinate its presentation with that of other parties, as evidenced by its timesheet entries, and</p>

<p>stages of the proceeding, but only addressed issues concerning DDTP, and did not participate on issues concerning Lifeline. Disabled customers have a direct interest not only in the DDTP program, but also in Lifeline and the other public policy programs this proceeding addressed. People with disabilities are disproportionately low-income, and as primary beneficiaries of California’s public policy telecommunications programs and PPP subsidies, they rely on and have a very strong interest in the Commission’s decisions about these programs.</p> <p>In addressing general concerns about the various public policy programs, DisabRA closely coordinated its efforts with NCLC, TURN, and other consumer groups. Throughout the proceeding, DisabRA submitted comments jointly with other consumer groups as appropriate. While not submitting joint filings with DRA, DisabRA also routinely consulted with them to coordinate efforts.</p> <p>During those portions of the proceeding where other disability groups participated, particularly on issues focused on DDTP, DisabRA also coordinated with these groups. Generally, the other disability-oriented groups focused on the need of a single class of people with disabilities while DisabRA brought a cross-disability perspective.</p>	<p>make no reductions to this claim for duplication of effort between DisabRA and other parties.</p>
---	--

PART III: REASONABLENESS OF REQUESTED

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

<p>Claimant’s explanation of how the cost of claimant’s participation bore a reasonable relationship with benefits realized through claimant’s participation.</p>	<p>CPUC Verified</p>
<p>DisabRA addressed issues of concern to its constituency regarding each of the public policy programs addressed in this proceeding, and was extremely active in efforts to review and reshape the Lifeline program. DisabRA raised issues unique to the disability community to ensure that this population was given direct consideration by the Commission in making decisions on program in which many people with disabilities are enrolled.</p> <p>While multiple attorneys staffed this proceeding since it was initiated in 2006, at any time, it has generally been staffed at any given time only by one senior attorney (Melissa Kasnitz, who manages all of DisabRA’s work before the Commission and who was involved through all stages of this matter) and one junior attorney. The junior attorneys changed over the course of the proceeding, but each junior attorney staffed a particular stage or set of comments before further transitions. No compensation is requested for time the various attorneys spent learning about the proceeding as they began participation. In addition to the work by the</p>	<p>The benefits to consumers as with many quasi-legislative proceedings are difficult to quantify. However, the rules developed by the Commission in this proceeding directly impact all consumers—both beneficiaries of the Commission’s Public Purpose</p>

<p>attorneys, DisabRA delegated tasks to paralegals as appropriate. In light of the multiple sets of comments and multiple proposed decisions issued in this proceeding, as well as the importance of the public policy programs to the disability community, the work conducted by DisabRA was reasonable and efficient.</p> <p>DisabRA's initial estimate of anticipated fees, prepared in 2006 and based on the OIR, was for \$42,125. <i>See Disability Rights Advocates' Notice of Intent to Claim Intervenor Compensation</i>, filed on August 11, 2006. At that time, DisabRA noted that "should the Commission decide to expand the scope or procedures for this proceeding, DisabRA's expected budget would change accordingly." In fact, the proceeding eventually was divided into several phases, with multiple rounds of substantive comments as well as multiple sets of comments on various proposed decisions. Because the proceeding became much more complex than was anticipated at the time the NOI was filed, it is appropriate that DisabRA's compensation request exceeds the estimate submitted in 2006.</p>	<p>Programs as well as the consumers whose surcharges support the programs.</p>
<p>While DisabRA made a substantial contribution to this proceeding and the hours claimed, in general are reasonable, we have made adjustments and disallowances to this claim. These adjusted hours and costs illuminate areas of excessiveness and/or inefficiency, include reductions for costs which are not justified, and a disallowance of hours for travel (See D.08-04-022) and clerical work which are not compensable.</p> <p>In addition, we make adjustments in several areas where we feel that the work of DisabRA's participants overlapped, without explanation. In past awards of compensation to DisabRA, we have made these same types of disallowances.² We continue to admonish DisabRA that that when multiple participants are utilized to perform the same task, that it must provide the Commission with sufficient information to ensure that this work is not duplicative. DisabRA may find it necessary to have several individuals involved in the same work efforts, but without a clear explanation of how these efforts differ from one another, the efforts appear duplicative as such, inefficient. DisabRA is experienced in work related to Commission proceedings and we would expect that duplication of efforts would be non-existent, minimal or at the very least, explained in DisabRA's claim. No such explanation is provided here. Ratepayers should pay only those efforts which are productive and efficient and result in making a substantial contribution to Commission decisions.</p> <p>After the disallowances and adjustments we make to DisabRA's claim, the remaining hours and costs reasonably support DisabRA's request for compensation and should be approved.</p>	

² See D.09-10-022 (amended by D.09-10-031) and D.11-01-022.

B. Specific Claim*:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
M. Kasnitz	2006	64.7	\$360	D.06-11-009	23,292.00	2006	58.4	\$360	21,024.00
A. Markwalder	2006	83.3	\$195	Adopted here	16,243.50	2006	75.8	\$195	14,781.00
L. Burger	2006	14.8	\$175	Adopted here	2,590.00	2006	14.8	\$175	2,590.00
M. Kasnitz	2007	14.5	\$390	D.07-06-040	5,655.00	2007	14.5	\$390	5,655.00
K. Corbit	2007	25.2	\$195	D.09-09-025	4,914.00	2007	25.2	\$195	4,914.00
M. Kasnitz	2008	21.7	\$420	D.09-03-018	9,114.00	2008	21.0	\$420	8,820.00
K. Gilbride	2008	32.2	\$150	D.09-04-030	4,830.00	2008	24.0	\$150	3,600.00
J. Pinover	2008	5.8	\$150	D.09-09-025	870.00	2008	5.8	\$150	870.00
M. Kasnitz	2009	70.8	\$420	D.09-07-017	29,736.00	2009	65.3	\$420	27,426.00
K. Gilbride	2009	5.1	\$160	D.10-04-024	816.00	2009	5.1	\$160	816.00
M. Kasnitz	2010	56.8	\$420	D.10-07-013	23,856.00	2010	53.7	\$420	22,554.00
Subtotal: \$121,916.50						Subtotal: \$113,050.00			
EXPERT FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
D. Belser	2006	26.0	\$125	D.08-01-033	3,250.00	2006	26.0	\$125	3,250.00
Subtotal: \$3,250.00						Subtotal: \$3,250.00			
OTHER FEES (Paralegal, Summer Associate)									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Paralegal	2006	18.9	\$90	D.06-09-008	1,701.00	2006	17.3	\$90	1,557.00
Summer Associate	2006	9.4	\$90 ³	D.07-04-032	846.00	2006	9.4	\$90	846.00
Paralegal	2007	8.5	\$100	D.07-06-040	850.00	2007	6.3	\$100	630.00
Paralegal	2009	14.3	\$110	D.09-07-017	1,573.00	2009	11.3	\$110	1,243.00
Paralegal	2010	2.8	\$110	D.10-07-013	308.00	2010	1.2	\$110	132.00
Outreach Coordinator	2010	1.7	\$110	Adopted here	187.00	2010	-0-	\$110	-0-
Subtotal: \$5,465.00						Subtotal: \$4,408.00			

³ DisabRA incorrectly cites to an adopted hourly rate of \$100 in D.07-04-032 for 2006 paralegal services. The correct hourly rate adopted for this year was \$90. We correct this error here and re-computed DisabRA's claim total at \$136,520.25.

INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
M. Kasnitz	2006	2.0	\$180	½ rate D.06-11-009	360.00	2006	2.0	\$180	360.00
A. Markwalder	2006	7.1	\$97.50	½ rate adopted here	692.25	2006	7.1	\$97.50	692.25
Paralegal	2006	1.0	\$45	½ rate D.06-09-008	45.00	2006	1.0	\$45	45.00
M. Kasnitz	2011	19.4	\$210	½ rate D.10-07-013 and ALJ 267	4,074.00	2011	2.6	\$210	546.00
R. Williford	2011	1.8	\$75	½ rate D.11-01-022	135.00	2011	1.8	\$75	135.00
Paralegal	2011	1.5	\$55	½ rate D.10-07-013	82.50	2011	1.5	\$55	82.50
Subtotal: \$5,388.75						Subtotal: \$1,860.75			
COSTS									
Item	Detail			Amount \$	Amount \$				
In-house photocopies	See Comment 6, below			358.44	358.44				
Telephone	See Comment 6, below			72.73	72.73				
Travel	See Comment 6, below			51.60	-0-				
Postage	See Comment 6, below			17.23	17.23				
Subtotal: \$500.00⁴						Subtotal: \$448.40			
TOTAL REQUEST: \$136,520.25						TOTAL AWARD: \$123,017.15			
<p>* 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.</p> <p>**Reasonable claim preparation time typically compensated at ½ of preparer's normal hourly rate.</p>									

C. Comments Documenting Claim:

Comment #	Description/Comment
1	Alexius Markwalder is a 2003 law school graduate who had a rate of \$190 in 2005. <i>See</i> D.06-05-030. She has not previously had a rate set for work performed in 2006. DisabRA is requesting a rate of \$195 for Ms. Markwalder's work in 2006.

⁴ DisabRA's indicates in Part III, Section C of this claim that it voluntarily reduces its request for all costs to equal \$500. We adjust DisabRA's photocopying expenses to reflect this voluntary adjustment and re-compute DisabRA's total costs.

2	Lisa Burger is a 2005 law school graduate, who had a rate of \$170 in 2005. <i>See</i> D.06-09-008. She has not previously had a rate set for work performed in 2006. However, Mary-Lee Kimber, who is also a 2005 law school graduate at DisabRA, had a rate of \$175 set for 2006 in D.06-11-009. Thus we are requesting the same rate for Burger.
3	Dmitri Belser’s 2006 rate of \$125/hr has previously been approved by the Commission in D.09-09-025. In this proceeding, Belser, who is the Executive Director of the Center for Accessible Technology, provided testimony describing advances in telecommunications services and technologies, and the barriers and opportunities facing people with disabilities in accessing such services and technologies. Belser also described both potential benefits and potential problems that might arise from expanding access to wireless services and technologies. Belser’s invoice for the services provided was submitted with this claim.
4	Alicia Reyes, who is the current Outreach Coordinator at DisabRA, has never had a rate set. However, in the past, DisabRA has received the same rate for the Outreach Coordinator as for the paralegals. <i>See</i> D.09-10-022. Thus, we are requesting the same rate for Reyes as for the paralegals.
5	While work on the compensation request took place in the early week of 2011, DisabRA is not seeking a determination of 2011 rates in this proceeding. Rather, we are seeking compensation for work on this request at ½ of our 2010 rates.
6	<p>In its compensation request, DisabRA seeks recovery of \$641.56 in costs. The largest component of these costs is for in-house printing of documents that were filed and served electronically. DisabRA seeks \$500 for such expenses. DisabRA’s actual costs, at 20¢ per page, exceed the amount requested, in part due to the length of the proceeding and the voluminous filings. This is the case despite the fact that DisabRA routinely makes efforts to avoid printing documents that are not relevant to issues of concern to our constituency. In this proceeding, the number of relevant documents was substantial. However, in the past the Commission has disallowed printing costs that it deemed excessive. Thus, DisabRA is voluntarily reducing its requested costs to \$500.</p> <p>DisabRA believes that the other itemized costs are self-explanatory. However, DisabRA is happy to prepare a more detailed description and/or provide receipts if such documentation would assist the Commission in evaluating and processing this request for compensation.</p>

C. CPUC Adoptions, Disallowances & Adjustments:

Adoptions	
2006 Hourly Rate for Alexius Markwalder	DisabRA requests an hourly rate of \$195 for Markwalder’s work here from June/October 2006. Markwalder has not previously had a rate set for work before the Commission. DisabRA provides no other information about Markwalder’s background and experience other than the fact that Markwalder is a 2003 law graduate. Markwalder was admitted into the California Bar Association in December 2003. We approve DisabRA’s requested hourly rate of \$195, which is within the adopted range of \$150-\$205 approved in D.08-04-010 for attorneys with 0-2 years of experience.

<p>2006 Hourly Rate for Lisa Burger</p>	<p>DisabRA requests an hourly rate of \$175 for Burger’s work here from Apr/May 2006. Burger and has had previously adopted rates of \$170 for her 2005 work in D.06-09-008 and \$190 for her 2007 work in D.09-05-016. We approve DisabRA’s requested hourly rate of \$175, which is within the adopted range of \$150-\$205 approved in D.08-04-010 for attorneys with 0-2 years of experience.</p>
<p>2010 Hourly Rate for Outreach Coordinator</p>	<p>DisabRA requests an hourly rate of \$110 for Alicia Reyes’ work in this proceeding. DisabRA submits that in a past Commission decision⁵ we found that its Outreach Coordinator’s efforts should be compensated at the same hourly rate we have approved for paralegal tasks. We agree and continue the same practice here, adopting an hourly rate of \$110 for Reyes’ work.</p>
<p>Disallowances/Adjustments</p>	
<p>Disallowance of clerical tasks</p>	<p>We disallow DisabRA’s clerical tasks as they are subsumed in the fees paid to attorneys. Examples of these tasks include:</p> <p>“calendaring upcoming dates, comments and deadlines; calendaring workshops; filing and serving of comments and documents; review, update and indexing files and computing deadlines.”</p> <p><u>Disallowances for clerical tasks⁶:</u></p> <p>2006 Paralegal hours 1.6 hours 2007 Paralegal hours 2.2 hours 2009 Paralegal hours 3.0 hours 2010 Paralegal hours 1.6 hours</p>
<p>Disallowance of time spent on matters with no apparent relationship to substantial contributions⁷</p>	<p><u>2006 Kasnitz hours:</u></p> <p>4/24 .20 hrs “Outreach to CCB (Jeff Thom) re: blind concerns</p> <p>Total 2006 Kasnitz disallowances = .2 hours</p> <p><u>2008 Gilbride hours:</u></p> <p>11/12 1.50 hrs “preparation for meeting with CBOs re: lifeline issues, conference with M. Kasnitz regarding same.” 11/13 2.00 hrs “attending CBO meeting to discuss lifeline issues.” 11/17 .20 hrs “update to M. Kasnitz re: CBO meeting and presentation.”</p> <p>Total 2008 Gilbride disallowances = 3.7 hours</p> <p><u>2008 Kasnitz hours:</u></p> <p>11/12 .50 hrs “conference with K. Gilbride re: preparation for CBO meeting on ongoing lifeline issues.”</p>

⁵ See D.09-10-022.

⁶ Where DisabRA has combined multiple tasks into one timesheet entry, we elect to estimate the amount of time allocated to each task by dividing the total time logged by the numbers of tasks indicated in the timesheet entry.

⁷ See D.10-04-024, D.04-09-050, D.04-08-041, and D.96-08-040.

	<p>11/17 .20 hrs “report from K. Gilbride re: CBO forum on lifeline.”</p> <p>Total 2008 Kasnitz disallowances = .7 hours</p> <p><u>2010 Kasnitz hours:</u></p> <p>11/4 .20 hrs “email exchange with TURN re: outreach to get attendance at Commission meeting.”</p> <p>11/5 .80 hrs “prepare flyer re: outreach and attendance at Commission Conference with A. Reyes regarding same.”</p> <p>11/5 .30 hrs “outreach plan regarding attendance at hearing; finalize flyer regarding the same.”</p> <p>11/5 .60 hrs “conference with A. Reyes regarding outreach on PD and follow-up with TURN regarding same.”</p> <p>11/16 1.00 hr “conference with A. Reyes regarding outreach flyer.”</p> <p>11/16 .20 hrs “email exchange and teleconference with A. Reyes regarding outreach for Commission meeting.”</p> <p>Total 2010 Kasnitz disallowances = 3.1 hours</p> <p><u>2010-Outreach Coordinator Hours:</u></p> <p>11/5 .20 hrs “prepare LifeLine flyer modeled on TURN flyer.”</p> <p>11/5 .20 hrs “meeting with Kasnitz re: edits to LifeLine flyer and Outreach strategy.”</p> <p>11/5 .10 hrs “meeting with Kasnitz and Brumfield re: outreach strategy for distributing LifeLine flyer.”</p> <p>11/8 .30 hrs “revise LifeLine flyer per M. Kasnitz edits.”</p> <p>11/8 .50 hrs “prepare list of ILC and CBO emails for LifeLine flyer.”</p> <p>11/16 .30 hrs “prepare and distribute email blast of LifeLine flyer to ILCs and CBOs in SF Bay Area.”</p> <p>11/16 .10 hrs “email to Kasnitz and Brumfield to notify them of the distribution of LifeLine flyer to ILCs and CBOs in SF Bay Area.”</p> <p>Total 2010 Outreach Coordinator disallowances = 1.7 hours</p>
<p>Disallowance of time for duplication of effort and/or excessive hours</p>	<p>We disallow 1.2 hours of Markwalder’s time on 6/20/06 in a teleconference with “other intervenors regarding comments and strategy” as this duplicates the compensated efforts of Kasnitz.</p> <p>We disallow 1.2 hours of Kasnitz’s time on 7/6/06 for a “conference call with consumer groups regarding strategy for comments” as this duplicates the compensated efforts of Markwalder.</p> <p>We disallow 1.8 hours of Markwalder’s time on 8/31/06 for “reviewing opening comments” as this duplicates the compensated efforts of Kasnitz on 7/31/06.</p> <p>We disallow 50% the time (4.5 hrs) Markwalder’s spent on 9/1/06 and 9/5/06 “reviewing the opening comments of other parties,” as these efforts duplicate the compensated efforts of Kasnitz. We do, however, allow ½ of the time that</p>

	<p>Markwalder’s timesheets indicate were devoted to preparing DisabRA’s outline for reply comments.</p> <p>We disallow 1.8 hours of Kasnitz’s time spent “reviewing reply comments from other parties; notes re: same” as being previously compensated on 9/15/06.</p> <p>DisabRA requests a total of 7.6 hours (3.5 Gilbride and 3.1 Kasnitz) on 10/6/08 for “receiving and reviewing opening comments of other parties and notes regarding same.” Other intervenors with participation similar to DisabRA’s requested a total of 3 hours for this same task. We find this amount of time to be more reasonable and apply the same allowance to DisabRA’s requested totals for this task. To achieve this adjustment in hours, we reduce Gilbride’s time by 2.0 hours and Kasnitz’s time by 1.6 hours.</p> <p>We disallow 1.1 hours of Gilbride’s time on 10/10/08 “receiving and reviewing reply comments” of other parties. We have compensated Kasnitz for these same efforts on 10/08/08.</p> <p>We disallow 1.4 hours of Gilbride’s time on 9/25/08 for a “teleconference with TURN and NCLC regarding strategy for comments” as being duplicative of the compensated efforts of Kasnitz, also in attendance at the same event.</p>															
<p>Travel time for Kasnitz</p>	<p>Kasnitz requests reimbursement for travel deemed to be “routine.” DisabRA’s is located in Berkeley, CA. As such, we disallow the travel time requested on the following dates:</p> <table data-bbox="446 1039 1412 1365"> <tr> <td>4/26/06-</td> <td>“travel to/from workshop”</td> <td>1.5 hours</td> </tr> <tr> <td>5/04/09-</td> <td>“travel to/from all party meeting”</td> <td>1.2 hours</td> </tr> <tr> <td>12/17/09-</td> <td>“travel to and from Commission to attend “Wireless Lifeline Summit-Day 1”</td> <td>1.4 hours</td> </tr> <tr> <td>12/18/09-</td> <td>“travel to and from Commission to attend “Wireless Lifeline Summit-Day 2”</td> <td>1.4 hours</td> </tr> <tr> <td>10/27/10-</td> <td>“travel to and from ex parte meeting”</td> <td>1.5 hours</td> </tr> </table> <p>We deduct this time from Kasnitz’s professional totals, since DisabRA failed to segregate these hours and record them in the proper area of this claim.</p>	4/26/06-	“travel to/from workshop”	1.5 hours	5/04/09-	“travel to/from all party meeting”	1.2 hours	12/17/09-	“travel to and from Commission to attend “Wireless Lifeline Summit-Day 1”	1.4 hours	12/18/09-	“travel to and from Commission to attend “Wireless Lifeline Summit-Day 2”	1.4 hours	10/27/10-	“travel to and from ex parte meeting”	1.5 hours
4/26/06-	“travel to/from workshop”	1.5 hours														
5/04/09-	“travel to/from all party meeting”	1.2 hours														
12/17/09-	“travel to and from Commission to attend “Wireless Lifeline Summit-Day 1”	1.4 hours														
12/18/09-	“travel to and from Commission to attend “Wireless Lifeline Summit-Day 2”	1.4 hours														
10/27/10-	“travel to and from ex parte meeting”	1.5 hours														
<p>Travel Costs</p>	<p>DisabRA fails to describe its travel related costs or provide receipts to justify reimbursement for these costs. Because we have disallowed DisabRA’s travel related hours as being “routine” and the fact that Dimitri Belser (DisabRA’s expert) is also located in Berkeley, CA. (if these are his costs), we disallow \$51.60 for travel costs.</p>															

NOI and Intervenor Compensation Preparation	DisabRA requests a total of 32.8 hours of compensation for preparation of its NOI (10.1 hrs.) and Intervenor Compensation Claim (22.7 hrs.). This amount is excessive. Another intervenor participating similarly to DisabRA's participation here, requests 16 hours (NOI-1 hr. and Intervenor Compensation Claim-15 hrs.) of compensation for these same tasks. We find this amount of time more reasonable and apply the same allowances to DisabRA's request here. DisabRA has used the expedited forms available to intervenors to simplify these tasks and is also experienced in the completion of compensation claims. We approve a total of 16 hours for all participants. To achieve this allowance, we disallow 16.8 hours of Kasnitz's 2011 hours.
---	---

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the claim?

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

FINDINGS OF FACT

1. Claimant has made a substantial contribution to Decisions (D.) 10-11-033 and D.08-06-020.
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 \$123,017.15.

CONCLUSION OF LAW

1. The claim, with the adjustments set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. Claimant is awarded \$123,017.15.
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 9, 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 July 14, 2011, at San Francisco, California.

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

I abstain.

/s/ MICHEL PETER FLORIO
Commissioner

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:	D1107024	Modifies Decision? No
Contribution Decision(s):	D0806020 and 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
Disability Rights Advocates	01-24-11	\$136,520.25	\$123,017.15	No	disallowance of clerical tasks, disallowance of routine travel hours and costs, lack of substantial contribution, duplication of effort, excessive photocopying expenses and excessive hours for NOI and compensation preparation

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Melissa	Kasnitz	Attorney	Disability Rights Advocates	\$360	2006	\$360
Melissa	Kasnitz	Attorney	Disability Rights Advocates	\$390	2007	\$390
Melissa	Kasnitz	Attorney	Disability Rights Advocates	\$420	2008-2011	\$420
Alexius	Markwalder	Attorney	Disability Rights Advocates	\$195	2006	\$195
Lisa	Burger	Attorney	Disability Rights Advocates	\$175	2006	\$175
Kasey	Corbit	Attorney	Disability Rights Advocates	\$195	2007	\$195
Karla	Gilbride	Attorney	Disability Rights Advocates	\$150	2008	\$150
Karla	Gilbride	Attorney	Disability Rights Advocates	\$160	2009	\$160

Julia	Pinover	Attorney	Disability Rights Advocates	\$150	2008	\$150
Rebecca	Williford	Attorney	Disability Rights Advocates	\$150	2011	\$150
Dmitri	Belser	Expert	Disability Rights Advocates	\$125	2006	\$125
	Paralegal		Disability Rights Advocates	\$ 90	2006	\$ 90
	Summer Associate		Disability Rights Advocates	\$100	2006	\$ 90
	Paralegal		Disability Rights Advocates	\$100	2007	\$100
	Paralegal		Disability Rights Advocates	\$110	2009/2010	\$110
	Outreach Coordinator		Disability Rights Advocates	\$110	2010	\$110

(END OF APPENDIX)