

Decision 15-05-050 May 21, 2015

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding
Revisions to the California Universal
Telephone Service (LifeLine) Program.

Rulemaking 11-03-013
(Filed March 24, 2011)

**DECISION GRANTING COMPENSATION TO THE GREENLINING
INSTITUTE FOR SUBSTANTIAL CONTRIBUTION TO DECISION 14-01-036**

Intervenor: The Greenlining Institute	For contribution to Decision (D.) 14-01-036
Claimed: \$34,280.30	Awarded: \$33,575.00 (2.06% reduction)
Assigned Commissioners: Catherine J.K. Sandoval and Michael Picker	Assigned ALJ: Katherine MacDonald

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	The decision adopted revisions to the California LifeLine Program. (California LifeLine or LifeLine)
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Intervenor	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference (PHC):		N/A
2. Other specified date for NOI:	8/11/2006 (See C.1 Below)	Verified
3. Date NOI filed:	9/8/2006	Verified
4. Was the NOI timely filed?		No, but the motion to late file the NOI and NOI were accepted by the Commission.

Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	R.10-02-005	Verified
6. Date of ALJ ruling:	March 29, 2010	Verified
7. Based on another CPUC determination (specify):		
8. Has the Intervenor demonstrated customer or customer-related status?		Yes, the Greenlining Institute meets the requirements of a “customer” under § 1802(b).
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.09-08-009	Verified
10. Date of ALJ ruling:	01/10/2011	Verified
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes, the Greenlining Institute demonstrated significant financial hardship.
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.14-01-036	Verified
14. Date of issuance of Final Order or Decision:	01/27/2014	Verified
15. File date of compensation request:	03/26/2014	Verified
16. Was the request for compensation timely?		Yes, the Greenlining Institute timely filed the request for compensation.

C. Additional Comments on Part I:

#	Intervenor’s Comment(s)	CPUC Discussion
	In the Order Instituting Rulemaking (OIR) for R.11-03-013, the Commission closed R.06-05-028, the predecessor to this proceeding, and automatically made all parties of record in R.06-05-028 into parties in R.11-03-013. OIR at p. 15. The OIR further stated that “all intervenor compensation filings and findings will be transferred to the new rulemaking and parties need take no further action to transfer these findings.” Id. Greenlining was a party to R.06-05-028, and had an NOI on file in that proceeding, which was filed on September 8, 2006. A ruling finding Greenlining eligible for compensation in the predecessor proceeding was issued on October 17, 2006. Thus, at	Verified. See D.11-04-029.

	the time this proceeding was initiated, Greenlining automatically became a party with an appropriate showing that it was eligible for compensation.	
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PART II: SUBSTANTIAL CONTRIBUTION

A. Did the Intervenor substantially contribute to the final decision (see § 1802(i), § 1803(a), and D.98-04-059).

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p>1. Proposed Service Elements for LifeLine Program</p> <p>Greenlining argued that LifeLine subscribers should be able to place and receive voice- grade calls regardless of the technology used by the provider.</p> <p>The Decision held that any LifeLine provider must offer participants the ability to place and receive voice-grade calls regardless of the technology used.</p> <p>Greenlining further argued that service elements should include text messages for wireless.</p> <p>The Decision held that providers may offer domestic text messaging with voice plans that otherwise meet the LifeLine service elements.</p> <p>Greenlining argued that service elements should include unlimited incoming and outgoing local calls at flat rate.</p> <p>The Decision held that wireline providers must provide unlimited incoming calls and unlimited local calls for flat- rate plans.</p> <p>Greenlining argued that service elements should include free access to 911 regardless of network technology. The</p>	<p>Opening Comments.</p> <p>Decision Attachment D, p. D2, D6.</p> <p>Opening Comments, p. 16.</p> <p>Final Decision, p. 86.</p> <p>Opening Comments, p. 16.</p> <p>Final Decision, p. 82.</p> <p>Opening Comments, p. 16.</p> <p>Final Decision, p. 82.</p>	<p>Verified. Greenlining made many of these contributions as part of the filings of the “Joint Consumers”.</p>

<p>Decision agreed that any LifeLine service must have free, unlimited access to 911.</p> <p>Greenlining argued that service elements should include options for family plan discounts.</p> <p>The Decision agreed that providers may allow customers to apply LifeLine discount to bundled plans, including family plans.</p> <p>Greenlining argued that service elements should include access to directory services including directory assistance and a published directory.</p> <p>The Decision held that all providers must regardless of technological platform must provide access to local directory assistance.</p> <p>Greenlining argued that service elements should include free 8XX calls at no additional charge or use of minutes.</p> <p>The Decision held that wireline providers must provide free, unlimited access to 800 or 800- like toll-free services.</p> <p>The Decision further encourages California LifeLine wireless providers to waive all charges for 800 or 800-like toll-free numbers associated with social and medical services and not count them toward plan minutes.</p> <p>Greenlining argued that LifeLine plans should include an option for service with no long-term contract or Early Termination Fee.</p> <p>The Decision agreed that providers must offer an option with monthly rates and without contract or early termination penalties. The Decision further held that LifeLine participants may cancel their service within 14 days of service activation without incurring early termination fees.</p> <p>Greenlining argued that service elements should include access to telephone relay</p>	<p>Opening Comments, p. 16.</p> <p>Final Decision, p. 88.</p> <p>Opening Comments, p. 16.</p> <p>Final Decision p. 53 note 36.</p> <p>Opening Comments p. 17</p> <p>Final Decision Attachment D, p. D5.</p> <p>Final Decision p.53.</p> <p>Opening Comments p. 17.</p> <p>Final Decision p. 54.</p> <p>Final Decision Attachment D, p. D4.</p> <p>Opening Comments p. 17.</p>	
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<p>service.</p> <p>The Decision agreed that wireline providers must provide free access to telephone relay service.</p> <p>Greenlining argued that service elements should include free blocking for information services.</p> <p>The Decision held that any LifeLine provider must offer free blocking for 900/976 information services and a one-time billing adjustment.</p> <p>Greenlining argued that service elements should include free access to customer service, repair and operator services.</p> <p>The Decision agreed that LifeLine providers must provide free, unlimited access to customer service for information about California LifeLine, service activation, service termination, service repair, and bill inquiries.</p> <p>Greenlining argued that LifeLine customers should have the ability to choose a standalone offering, not bundled with any video or data services.</p> <p>The Decision held that LifeLine providers must offer at least one California LifeLine plan that meets or exceeds the California LifeLine service elements, and is not bundled with any video or data services.</p>	<p>Finale Decision Attachment D, pp. D5, D10.</p> <p>Opening Comments p.17.</p> <p>Final Decision p. 109.</p> <p>Opening Comments p.17</p> <p>Final Decision p. 112.</p> <p>Opening Comments p. 17.</p> <p>Final Decision p. 86.</p>	
<p>2. Unique Needs of Customers</p> <p>Greenlining argued that LifeLine customers should not receive “second-class” service, and carriers should not be allowed to treat LifeLine customers discriminatorily.</p> <p>The Decision held that providers could not select which of their plans were LifeLine</p>	<p>Opening Comments p. 14; Opening Comments on Proposed Decision p. 6; Reply Comments on Proposed Decision pp. 4-5.</p> <p>Final Decision p. 88.</p>	<p>Verified. Greenlining made many of these contributions as part of the filings of the “Joint Consumers”.</p>

<p>plans; rather, as long as a provider’s plan met the minimum criteria, participants can apply the LifeLine discount to that plan. Similarly, the Decision held that LifeLine providers must offer additional minutes at the lowest charge offered to non- LifeLine customers. The Decision also held that wireless providers must offer all handsets they offer their retail customers on the same terms and conditions. Greenlining opposed carriers’ suggestion that wireless services that offer a maximum of 250 minutes a month qualify for the LifeLine discount, because LifeLine customers have relatively little control over their minutes, and need to use a significant number of minutes since the wireless phone is the customer’s only phone.</p> <p>The Decision acknowledged that 250 minutes were insufficient to meet LifeLine subscribers’ needs and implemented tiered wireless subsidies to incentivize carriers to offer more minutes.</p> <p>Greenlining argued that the current market conditions would cause prices to increase to unaffordable levels, and that the Commission should cap reimbursement rates to protect LifeLine customers.</p> <p>The Decision agreed that current market conditions support maintaining the cap on reimbursement rates.</p> <p>Greenlining argued that because LifeLine service is likely a customer’s only form of phone service, customers should have a longer cancellation period and be able to cancel based on changed circumstances.</p>	<p>Final Decision p. 107.</p> <p>Final Decision p. 108.</p> <p>Opening Comments p. 20.</p> <p>Final Decision 76-77.</p> <p>Reply Comments p. 17.</p> <p>Final Decision p. 49.</p> <p>Opening Comments on Proposed Decision pp. 10-12.</p>	
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<p>The Decision held that LifeLine customers should be given a meaningful opportunity to test their service and must be able to cancel without penalty within 14 days of purchasing LifeLine service.</p>	<p>Final Decision p. 105.</p>	
<p>3. Functionally Equivalent Technologies</p> <p>Greenlining argued that LifeLine service elements should be the same regardless of the technology used by the provider.</p> <p>The Decision held that the service elements for wireline and wireless LifeLine should be the same, with limited exceptions for technological differences.</p> <p>Greenlining argued that the Commission should not reduce public safety, affordability, or service quality in order to increase provider participation.</p> <p>The Decision held that LifeLine should strike the balance between encouraging non-traditional providers to participate and protecting consumers.</p>	<p>Opening Comments p. 2; Reply Comments p. 14.</p> <p>Final Decision p. 86.</p> <p>Opening Comments pp. 8-9.</p> <p>Final Decision p. 46.</p>	<p>Verified. Greenlining made many of these contributions as part of the filings of the “Joint Consumers”.</p>
<p>4. In-Language Customer Service</p> <p>Greenlining argued that LifeLine providers must provide free access to customer service in the same language in which California LifeLine was originally sold to the Subscriber.</p> <p>The Decision held that California LifeLine providers shall provide free, unlimited access to customer service representatives fluent in the same language in which California LifeLine was originally sold or</p>	<p>Opening Comments p. 34; Reply Comments on PD pp. 1-2.</p> <p>Final Decision p. 112.</p>	<p>Verified. Greenlining made many of these contributions as part of the filings of the “Joint Consumers”.</p>

marketed.		
<p>5. Social Security Numbers</p> <p>The issue of eliminating the Social Security number requirement did not arise until Commissioner Sandoval raised the issue in the initial Proposed Decision. Greenlining supported the decision to provide LifeLine services to consumers without a Social Security number as soon as the opportunity presented itself, made the issue the primary focus of its comments on the Proposed Decision, and advocated for the elimination of the requirement at the November 26, 2013 all-party meeting.</p> <p>The Final Decision ruled that LifeLine will be available to eligible customers without a Social Security number.</p>	<p>Opening Comments on Proposed Decision p. 1; Reply Comments on Proposed Decision pp. 2-3.</p> <p>Final Decision pp. 117-124.</p>	<p>Verified. Greenlining made many of these contributions as part of the filings of the “Joint Consumers”.</p>

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

	Intervenor’s Assertion	CPUC Discussion
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?¹	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified
c. If so, provide name of other parties: Center for Accessible Technology, National Consumer Law Center, ORA, The Utility Reform Network		Verified
<p>d. Intervenor’s claim of non-duplication:</p> <p>Greenlining, CforAT, NCLC and TURN took very similar positions in this proceeding. To avoid duplication, Greenlining frequently met with CforAT, NCLC and TURN to coordinate strategy and drafting of joint comments.</p>		Verified

¹ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

<p>Greenlining, CforAT, NCLC and TURN divided responsibility for researching and drafting specific comments on individual issues. For example, in the Joint Consumers’ Opening and Reply Comments on the Scoping Memo, Greenlining had primary responsibility for researching and drafting arguments regarding (1) the proposed elements of LifeLine, (2) the unique needs of LifeLine customers, and in-language customer service requirements, while other Joint Consumers took primary responsibility for other issues.</p> <p>In the Joint Consumers’ Opening and Reply Comments on the Proposed Decision, Greenlining had primary responsibility for researching and drafting arguments regarding the (1) service elements of LifeLine, (2) the in- language customer service requirements, (3) the elimination of the Social Security Number requirement, and (4) the PD’s non-discrimination provisions, while other Joint Consumers took primary responsibility for other issues.</p> <p>Greenlining is claiming compensation only for the work its own attorneys performed.</p>	
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PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

<p>a. Intervenor’s claim of cost reasonableness:</p> <p>The Commission’s revision of the LifeLine rules not only ensures consumer protections for LifeLine customers, but also protects the integrity of the LifeLine Fund by ensuring that ratepayer funds are not being used to subsidize inferior service. The Commission’s (1) requirement that LifeLine providers offer an option for service with no long-term contract or Early Termination Fee, (2) mandatory 14-day cancellation period, and (3) cap on subsidy rates will realize substantial cost saving each year. The Commission’s requirement that providers allow LifeLine customers to apply the subsidy to any qualifying plan and the in-language customer service requirement will ensure that LifeLine participants are not wasting money on services they do not want or need, and the tiered subsidies for wireless plans will prevent wireless LifeLine customers from paying exorbitant rates for extra minutes. Additionally, the inclusion of wireless plans for LifeLine and the elimination of the Social Security number requirement will allow potentially thousands of eligible customers who need a wireless phone to obtain wireless service at a discount, saving each customer hundreds of dollars a year. Existing and new customers will realize substantial cost savings each year, which will far exceed the very low cost of Greenlining’s participation.</p>	<p>CPUC Discussion</p> <hr/> <p>Verified</p>
<p>b. Reasonableness of hours claimed:</p> <p>Greenlining’s hours and claim in this proceeding are relatively small.</p>	<p>Verified, but see CPUC Disallowances</p>

<p>Greenlining kept the majority of its participation with its most expert telecom attorney to ensure timely and efficient participation. Greenlining’s participation focused on specific issues in the proceeding and Greenlining coordinated with other Joint Consumers to avoid unnecessary duplication of work. For these reasons, Greenlining’s hours spent on this proceeding were very reasonable.</p> <p>The instant proceeding stems from a previous proceeding, R.06-05-028. Because of the age of the NOI in that proceeding and the new issues that have arisen in the instant proceeding, comparing Greenlining’s hours and claim in this proceeding to the estimate in the NOI would be unhelpful.</p>	<p>and Adjustments, below.</p>
<p>c. Allocation of hours by issue:</p> <p>A. Proposed Service Elements for LifeLine Offerings--45% B. Unique Needs of LifeLine Customers--8% C. Rules for Functionally Equivalent Technologies--6% D. In-Language Customer Service Requirements--6% E. Social Security Number Requirements--4% F. General--31%</p>	<p>Verified</p>

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Enrique Gallardo	2011	1.1	\$370	D.12-04-043	\$407	1.1	\$370	\$407.00
Enrique Gallardo	2012	4.3	\$380	D.14-02-036	\$1,634.00	4.3	\$380	\$1,634.00
Enrique Gallardo	2013	0.5	\$390	D.14-02-036	\$195.00	0.5	\$390	\$195.00
Paul Goodman	2013	91	\$315	See Attachment B	\$28,665.00	90.1 [1]	\$310 [2]	\$27,931.00
Paul Goodman	2014	4.9	\$320	See Attachment B	\$1,568.00	4.9	\$320	\$1,568.00
Subtotal: \$32,469.00 [A]						Subtotal: \$31,735.00		

INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Paul Goodman	2014	11.5	\$157.50	See Attachment B	\$1,811.25	11.5	\$160 ²	\$1,840.00
Subtotal: \$1,811.25						Subtotal: \$1,840.00		
TOTAL REQUEST: \$34,280.30						TOTAL AWARD: \$33,575.00		

**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. Intervenors' 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.

**Travel and Reasonable Claim preparation time typically compensated at 1/2 of preparer's normal hourly rate

ATTORNEY INFORMATION			
Attorney	Date Admitted to CA BAR ³	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
Paul Goodman	April 24, 2002	219086	No
Enrique Gallardo	December 9, 1997	191670	No

D. CPUC Disallowances and Adjustments:

Item	Reason
[A]	The Commission notes a mathematical error in Greenlining's claim and has corrected the total request to accurately reflect the sum of the claim amounts.
[1]	On May 28, 2013, June 12, 2013, and November 25, 2013, Goodman lists work concerning the finalizing of documents. Such work is clerical and is not compensated by the Commission, as it has been factored into the established rates approved for attorneys. As such, the Commission removed 0.9 hours from Goodman's 2013 hours.
[2]	In D.14-12-061, the Commission set Goodman's 2011 rate at \$300. When the cost-of-living adjustment for 2012 of 2.2%, found in Resolution ALJ-281, is applied to Goodman's rate, after rounding, the 2012 rate is set at \$305. When the cost-of-living adjustment for 2013 of 2%, found in Resolution ALJ-287, is applied to Goodman's rate, after rounding, the 2013 rate is set at \$310. When the cost-of-living adjustment for 2014 of 2.58%, found in Resolution ALJ-303, is applied to Goodman's rate, after rounding, the 2014 rate is set at \$320.

² \$160 per hour is the half-rate of Goodman's 2014 hourly rate, \$320.

³ This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

PART IV: OPPOSITIONS AND COMMENTS

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

FINDINGS OF FACT

1. The Greenlining Institute has made a substantial contribution to D.14-01-036.
2. The requested hourly rates for The Greenlining Institute’s representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$33,575.00.
5. This rulemaking is a quasi-legislative proceeding with no named respondents. The proceeding broadly impacts communications utilities, as well as non-utility communications service providers.

CONCLUSIONS OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.
2. Comments on today’s decision should be waived and the decision should be made effective immediately.

ORDER

1. Intervenor is awarded \$33,575.00.
2. Within 30 days of the effective date of this decision, the Commission’s Intervenor Compensation Fund shall pay the Greenlining Institute the total award. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning June 9, 2014, the 75th day after the filing of The Greenlining Institute’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 May 21, 2015, at San Francisco, California.

MICHAEL PICKER
President
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
CARLA J. PETERMAN
LIANE M. RANDOLPH
Commissioners

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:	D1505050	Modifies Decision?	No.
Contribution Decision(s):	D1401036		
Proceeding(s):	R1103013		
Author:	ALJ MacDonald		
Payer(s):	The Commission's Intervenor Compensation Fund		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Greenlining Institute	March 26, 2014	\$34,280.30	\$33,575.00	N/A	See CPUC Disallowances and Adjustments, above.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Enrique	Gallardo	Attorney	The Greenlining Institute	\$370.00	2011	\$370.00
Enrique	Gallardo	Attorney	The Greenlining Institute	\$380.00	2012	\$380.00
Enrique	Gallardo	Attorney	The Greenlining Institute	\$390.00	2013	\$390.00
Paul	Goodman	Attorney	The Greenlining Institute	\$315.00	2013	\$310.00
Paul	Goodman	Attorney	The Greenlining Institute	\$320.00	2014	\$320.00/\$160

(END OF APPENDIX)