ALJ/PD1/SJP/gp2 **Date of Issuance: 3/9/2021**

Decision 21-03-016 March 4, 2021

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

|  |  |
| --- | --- |
| Order Instituting Rulemaking on the Commission’s Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities’ Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations. | Rulemaking 12-06-013 |

**Decision granting compensation to CENTER FOR ACCESSIBLE TECHNOLOGY for substantial contribution to Decision
(D.) 20-03-026**

|  |  |
| --- | --- |
| **Intervenor:** Center for Accessible Technology (CforAT) | **For contribution to Decision (D.)20-03-026** |
| **Claimed: $ 21,201.50** | **Awarded: $21,087.50** |
| **Assigned Commissioner:** Marybel Batjer | **Assigned Administrative Law Judges (ALJs):** Patrick Doherty and Sophia Park |

**PART I: PROCEDURAL ISSUES**

|  |  |
| --- | --- |
| **A. Brief description of Decision:**  | This decision authorizes DDB San Francisco to continue contracted work on a statewide marketing, education, and outreach program in support of the transition of most residential customers of the major IOUs to default time-of-use rates through 2021. This decision authorizes an additional ratepayer expenditure of up to approximately $13.3 million for this continued work; DDB sought approval of $22.9 million. |

1. **Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812[[1]](#footnote-1):**

|  |  |  |
| --- | --- | --- |
|  | **Intervenor** | **CPUC Verification** |
| **Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):** |
|  1. Date of Prehearing Conference: | Initial PHC: 10/24/12Multiple additional PHCs have been held in this proceeding, but none of them are relevant to eligibility for compensation | 08/24/15 |
|  2. Other specified date for NOI: | N/A |  |
|  3. Date NOI filed: | 11/26/12 | 09/23/15 |
|  4. Was the NOI timely filed? | Yes |
| **Showing of eligible customer status (§ 1802(b) or eligible local government entity status(§§ 1802(d), 1802.4):** |
|  5. Based on ALJ ruling issued in proceeding number: | CforAT’s most recent finding of eligible customer status was issued in R.20-01-007 on May 29, 2020. See also note below. | R.20-01-007 |
|  6. Date of ALJ ruling: | 1/10/19 | 05/29/2020 |
|  7. Based on another CPUC determination (specify): | N/A |  |
|  8. Has the Intervenor demonstrated customer status or eligible government entity status? | Yes |
| **Showing of “significant financial hardship” (§1802(h) or §1803.1(b)):** |
|  9. Based on ALJ ruling issued in proceeding number: | CforAT’s most recent finding of significant financial hardship was issued in R.20-01-007 on May 29, 2020. See also note below. | R.20-01-007 |
| 10. Date of ALJ ruling: | 5/29/20 | Verified |
| 11. Based on another CPUC determination (specify): |  |  |
| 12 12. Has the Intervenor demonstrated significant financial hardship? | Yes |
| **Timely request for compensation (§ 1804(c)):** |
| 13. Identify Final Decision: | D.20-03-026 | Verified |
| 14. Date of issuance of Final Order or Decision:  | April 2, 2020 | Verified |
| 15. File date of compensation request: | June 1, 2020 | Verified |
| 16. Was the request for compensation timely? | Yes |

1. **Additional Comments on Part I:**

|  |  |  |
| --- | --- | --- |
| **#** | **Intervenor’s Comment(s)** | **CPUC Discussion** |
|  | CforAT has been found eligible for compensation and has been awarded compensation in earlier phases of this proceeding. *See* D.18-06-026, D.15-11-036, and D.15-03-013. “A party found eligible for an award of compensation in one phase of aproceeding remains eligible in later phases, including any rehearing, in the same proceeding.” Rule 17.2 of the Commission’s Rules of Practice and Procedure. A further request for compensation for Phase 4 issues was filed on November 15, 2019; this request is still pending.  | Noted |

**PART II: SUBSTANTIAL CONTRIBUTION**

1. **Did the Intervenor substantially contribute to the final decision (*see* § 1802(j),
§ 1803(a), 1803.1(a) and D.98-04-059):**

|  |  |  |
| --- | --- | --- |
| **Intervenor’s Claimed Contribution(s)** | **Specific References to Intervenor’s Claimed Contribution(s)** | **CPUC Discussion** |
| 1. **General/Background:** Phase 5 of this proceeding addressed whether to extend the existing marketing agreement with DDB in support of the rollout of residential default time of use (TOU) rates, and, if so, how much to spend on such an extension. CforAT opposed any such extension and opposed any additional spend. To the extent that any additional work or spending was authorized, CforAT sought additional oversight of DDB.

*See generally:** Comments of Southern California Edison, San Diego Gas & Electric, CforAT, and TURN on Assigned Commissioner’s Scoping Memo and Ruling for Phase 4 of the Proceeding (the Joint Comments), filed on September 20, 2019;
* CforAT Comments on Proposed Decision Addressing Phase 5 Issues, (Comments on PD) filed on January 16, 2020;
* CforAT Reply Comment on Proposed Decision Addressing Phase 5 Issues (Reply Comments on PD), filed on January 27, 2020; and
* CforAT’s Reply Comments on the Alternate Proposed Decision Addressing Phase 5 Issues (Reply Comments on APD), filed on March 19, 2020
 | *See* Phase 5 Decision at p. 5 (setting out questions within the scope of Phase 5).The initial Proposed Decision of ALJ Doherty and ALJ Park, issued on December 30, 2019, would have extended the contract with DDB but would have provided only $7.7 million in additional funding. DDB requested $22.9 million in additional funding. PD at p. 2.Subsequently, on February 25, 2020, the Alternate Proposed Decision of President Batjer was issued. The APD, which was eventually adopted, authorized additional funding of up to $13.3, specifically allocating the increased funding beyond that of the PD to be spent on CBO Outreach and work to update and maintain in-language and multicultural video, digital, and social media content. *See* Digest of Differences between the PD and the APD. Both the PD and the APD include additional requirements for tracking expenditures; these requirements were included in the Final Decision. Final Decision at p. 22.  | Verified |
| 2**. DDB Contract Extension.**CforAT joined with the IOUs as well as TURN to express support for ongoing ME&O around the extended transition to default TOU, while opposing any extension of the DDB contract. Joint Comments at p. 2. CforAT and the other Joint Parties argued that DDB had not demonstrated that its expenditures under the initial contract for outreach were effective. *Id.* at pp. 3-4. *See also* Joint Notice of Ex Parte Communication on Behalf of the Public Advocates Office, the Center for Accessible Technology and The Utility Reform Network (Ex Parte Notice), filed on October 7, 2019.  | While the Commission determined that the DDB contract should be extended, both the PD and the APD recognized the concerns raised by CforAT and the other Joint Parties; the Final Decision notes that “the Commission is mindful of the concerns” expressed by the Joint Parties as well as Cal Advocates, and makes clear that “the Commission’s approval of a timeline extension does not indicate approval of the incremental budget sought by DDB.” Final Decision at p. 12. The Final Decision justifies the extension of the contract on the basis of the need to avoid wasting already expended funds developing an outreach program by ending the program prior to the extended dates for the TOU transition. *Id.* at pp. 11-12. It does not contain any endorsement of the work performed by DDB.  | Verified |
| 3. **Additional Spend for DDB**.CforAT and the other Joint Parties opposed any incremental funding for DDB. Joint Comments at p. 3; *see also* Ex Parte Notice at p. 2. Upon the issuance of the PD, CforAT noted our ongoing general opposition to any new funding allocation, while declining to oppose the limited allocation set out in the Proposed Decision, stating, “While CforAT (in conjunction with multiple other stakeholders) opposed an extension of DDB’s contract and opposed authorization of any additional expenditures to DDB, we do not fundamentally oppose the PD, which recognizes the validity of the concerns raised by parties, but strives to ensure that ratepayer funds already spent in support of developing content regarding the TOU transition are not wasted.” CforAT Comments on PD at p. 1 (footnotes omitted). *See also* CforAT’s Reply Comments on APD at pp. 1-2.  | The Final Decision recognized that “a reasonable interpretation of D.17-12-023 [initially authorizing work by DDB] is that the deliverables described by that decision – including any work under them that may have in DDB’s judgment been specific to PG&E and SCE territories – were to be completed using the $31.7 million authorized by that decision,” and further noted that this “creates difficulty in evaluating the merit of DB’s incremental budget request, as it is evident that DDB is requesting an incremental budget to fulfill tasks that D.17-12-023 directed be fulfilled without an incremental budget.” Final Decision at pp. 13-14. This is consistent with the argument of the Joint Parties that DDB should leverage previously allocated funding to complete the work needed during the TOU transition. *See* Final Decision at p. 15.The Final Decision further notes that “it is unfortunate” that money was not reserved to account for the known delay in the TOU transition period, and expressed disappointment in the incremental budget request. *Id.* at p. 15.Notwithstanding these expressions of disappointment and concern, the PD would have allocated $7.7 million in additional funding, allocated to specified tasks, in order “to allow DDB to place creative content in 2020 and 2021, optimize and adapt existing creative content based on an evaluator’s findings of the impact of the content during SDG&E’s rollout of TOU, generally refresh creative content for PG&E and SCE territories, and continue coordination with the Commission and other stakeholders.” PD at pp. 17-19. This relatively small allocation was accompanied by an admonishment “the incremental budget should be limited to the funding DDB requires to ensure that existing content is able to be run in a manner that supports the Commission’s goals.” PD at p. 17. These concerns accept the validity of the positions taken by CforAT and the other Joint Parties.The APD subsequently expanded the approved list of tasks, adding funding targeting efforts to reach diverse and hard-to-reach customers, including CBO outreach. APD/Final Decision at pp. 17-18. While neither the PD nor the APD concur with CforAT’s initial request to deny additional funding to DDB, CforAT’s input, in conjunction with other parties, supported the Commission’s concerns about an additional allocation and its determination to limit such allocations to a defined and constrained list of tasks. | Verified |
| **4. Need for Additional Monitoring.**CforAT argued that, to the extent DDB was authorized to conduct additional work and/or allocated additional funding, greater monitoring and oversight of their work would be needed. CforAT Comments on Phase 5 PD at pp. 2-4.CforAT also argued for specific additional monitoring obligations with regard to the addition of funding targeted at CBO outreach in the APD, including a request that information be provided to all stakeholders. CforAT Reply Comments on APD at pp. 1-2.  | The Final Decision adopted new requirements for DDB to report on a monthly basis to the Commission’s Energy Division regarding expenditures made under the extended agreement. This new reporting requirement is expressly intended to allow Energy division to evaluate “the appropriateness of expenditures as they relate to the goals of this proceeding.” Final Decision at p. 22.In addition to this general reporting requirement, the APD added (and the Final Decision incorporated) additional specific requirements for DDB to provide information on its CBO outreach efforts to all stakeholders on the service list, consistent with CforAT’s request. Final Decision at pp. 18-19. | Verified |

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

|  |  |  |
| --- | --- | --- |
|  | **Intervenor’s Assertion** | **CPUC Discussion** |
| **a. Was the Public Advocate’s Office of the Public Utilities Commission (Cal Advocates) a party to the proceeding?[[2]](#footnote-2)** | Yes | Yes |
| **b. Were there other parties to the proceeding with positions similar to yours?**  | Yes. | Yes |
| **c. If so, provide name of other parties:** Virtually all active parties in this proceeding opposed additional funding for DDB.  | Noted |
| **d. Intervenor’s claim of non-duplication:** As noted above, CforAT joined with a strong coalition of IOUs and other consumer groups for the primary substantive filing in this phase of the proceeding. CforAT further coordinated with both consumer advocates (TURN and Public Advocates) and the IOUs regarding comments on the PD and the APD and attendance at an ex parte meeting with President Batjer’s Advisor. While the parties took similar positions, CforAT’s input reflects our ongoing advocacy in this proceeding to ensure that any outreach is both effective and cost effective. To the extent there was limited duplication because so many parties shared the same position, it does not justify any reduction in CforAT’s compensation.  | Noted |

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

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

|  |  |
| --- | --- |
|  | **CPUC Discussion** |
| **a. Intervenor’s claim of cost reasonableness:** CforAT regularly participates before the Commission to address issues impacting the bills of vulnerable utility customers, and has been an active participant in this proceeding since it was opened. CforAT has been the most active consumer advocate in the ongoing work on ME&O, including issues related to the work of DDB. Our efforts benefit our constituency by working to ensure that they understand their rate options and that they are able to make a choice on rates based on accurate information. Overall, the benefits to our constituency of our ongoing efforts on their behalf outweigh the cost of participation by CforAT. | Noted |
| **b. Reasonableness of hours claimed:** The time spent by CforAT on Phase 5 of this proceeding reflect CforAT’s reasonable efforts to respond to a Ruling requesting input and then to the PD and APD as they were issued. As a key stakeholder representing hard-to-reach customers throughout this proceeding, CforAT’s active participation on Phase 5 issues was reasonable, and our overall hours spent on Phase 5 represents appropriate levels of participation. To improve efficiency, CforAT was generally represented at the ME&O Working Group, where issues related to DDB’s performance and general effectiveness of ME&O around the TOU transition are addressed, by our Analyst, Kate Woodford, whose hourly billing rate is substantially lower than that of CforAT’s legal counsel.  | Noted |
| **c. Allocation of hours by issue:** This time request primarily includes time spent specifically on the Phase 5 issues of the proposed contract extension for DDB. It also includes some time spent generally on ongoing issues of residential rate reform, including attendance at the annual rate summit, and on CforAT’s ongoing participation in the Working Group, much of which was spent on issues of ME&O related to the ongoing work of DDB. None of the time recorded in Phase 5 of this proceeding has been included in any prior compensation request. **Hours by counsel (Melissa Kasnitz)****2019 – 16.5 hours total****Phase 5: 9.0 hours (55% of total)**As noted above, this time relates to work directly addressing the Phase 5 issues regarding the proposed contract extension for DDB.**General Participation: 6.1 hours (37% of total)**The substantial majority of this time is from attendance at the 2019 Annual Rate summit. The remainder records time spent on general issues regarding ongoing rate reform implementation efforts.**Working Group: 1.4 hours (8% of total)**While CforAT was represented at the Working Group by our Analyst, Kate Woodford, counsel spent some time reviewing Working Group issues with Ms. Woodford and reviewing results from the Working Group meetings. **2020 – 12.8 hours total****Phase 5: 12.1 hours (95% of total)****General Participation: 0.4 hours (3% of total)****Working Group: 0.3 hours (2% of total)****Hours by Analyst (Kate Woodford)****2019 – 11.5 hours total****Phase 5: 0.6 hours (5% of total)****Working Group: 10.9 hours (95% of total)****2020 – 17.1 hours total****Working Group: 17.1 hours (100% of total)** | Noted |

1. **Specific Claim:\***

|  |  |
| --- | --- |
| **Claimed** | **CPUC Award** |
| **ATTORNEY, EXPERT, AND ADVOCATE FEES** |
| **Item** | **Year** | **Hours** | **Rate $** | **Basis for Rate\*** | **Total $** | **Hours** | **Rate $** | **Total $** |
| Melissa W. Kasnitz | 2019 | 16.5 | $490 | D.19-12-053 | $8,085.00 | 16.5 | $490.00 | $8,085.00 |
| Melissa W. Kasnitz | 2020 | 12.8 | $505 | Anticipated COLA for 2020 | $6,464.00 | 12.8 | $505.00 [1] | $6,464.00 |
| Kate Woodford | 2019 | 11.5 | $155 | D.19-12-052[[3]](#footnote-3) | $1,916.50 [2] | 11.5 | $155.00 | $1,782.50 |
| Kate Woodford | 2020 | 17.1 | $160 | Anticipated COLA for 2020 | $2,736.00 | 17.1 | $160.00 [3] | $2,736.00 |
| ***Subtotal:*** **$19,201.50** | ***Subtotal:* $19,067.50** |
| **INTERVENOR COMPENSATION CLAIM PREPARATION \*\*** |
| **Item** | **Year** | **Hours** | **Rate $**  | **Basis for Rate\*** | **Total $** | **Hours** | **Rate**  | **Total $** |
| Melissa W. Kasnitz | 2020 | 8.0 | $250 | ½ standard requested rate, rounded down for convenience | $2,000 | 8.0 | $252.50 [1] | $2,020.00 |
| ***Subtotal: $2,000*** | ***Subtotal: $2,020.00*** |
| ***TOTAL REQUEST: $21,201.50*** | ***TOTAL AWARD: $21,087.50*** |
|  \*We remind all intervenors that Commission staff may audit the records and books of the intervenors to the extent necessary to verify the basis for the award (§1804(d)). Intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor’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. \*\*Travel and Reasonable Claim preparation time are typically compensated at ½ of preparer’s normal hourly rate |
| **ATTORNEY INFORMATION** |
| **Attorney** | **Date Admitted to CA BAR[[4]](#footnote-4)** | **Member Number** | **Actions Affecting Eligibility (Yes/No?)****If “Yes”, attach explanation** |
| Melissa W. Kasnitz | December, 1992 | 162679 | No |

1. **Attachments Documenting Specific Claim and Comments on Part III:**

***(Intervenor completes; attachments not attached to final Decision)***

|  |  |
| --- | --- |
| **Attachment or Comment #** | **Description/Comment** |
| 1 | Certificate of Service |
| 2 | **Detailed Time Records (including Merits Time for work on Phase 5 and time spent on this compensation request)** |

**D. CPUC Comments, Disallowances, and Adjustments**

|  |  |
| --- | --- |
| **Item** | **Reason** |
| [1] | We have applied the 2020 COLA of 2.55% to Melissa Kasnitz’s requested rate of $490.00, per Resolution ALJ-387. The application of the 2020 COLA, rounded to the nearest $5 per D.08-04-010, brings Melissa Kasnitz’s 2020 Attorney rate to $505.00.  |
| [2] | The correct total for Kathryn Woodford’s 2019 rate is $1,782.50. During verification of the submitted timesheet, we found the first entry for Kathryn Woodford’s 2019 time reflects 0.4 hours at a rate of $490.00. The correct 2019 rate for Kathryn Woodford, per D.19-12-53, is the requested rate of $155.00. |
| [3] | We have applied the 2020 COLA of 2.55% to Kathryn Woodford’s requested rate of $155.00, per Resolution ALJ-387. The application of the 2020 COLA, rounded to the nearest $5 per D.08-04-010, brings Kathryn Woodford’s 2020 Attorney rate to $155.00. |

**PART IV: OPPOSITIONS AND COMMENTS**

**Within 30 days after service of this Claim, Commission Staff or any other party may file a response to the Claim (*see* § 1804(c))**

|  |  |
| --- | --- |
| **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. Center for Accessible Technology has made a substantial contribution to
D.20-03-026.
2. The requested hourly rates for Center for Accessible Technology’s representatives, as adjusted herein, 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 $21,087.50.

**CONCLUSION OF LAW**

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

**ORDER**

1. Center for Accessible Technology shall be awarded $21,087.50.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall pay Center for Accessible Technology their respective shares of the award, based on their California-jurisdictional electric revenues for the 2019 calendar year, to reflect the year in which the proceeding was primarily litigated. If such data is unavailable, the most recent electric revenue data shall be used. 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 August 15, 2020, the 75th day after the filing of Center for Accessible Technology’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 March 4, 2021, at San Francisco, California.

MARYBEL BATJER

 President

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

DARCIE HOUCK

 Commissioners

**APPENDIX**

Compensation Decision Summary Information

|  |  |  |  |
| --- | --- | --- | --- |
| Compensation Decision: | D2103016 | Modifies Decision?  | No |
| Contribution Decision(s): | D2003026 |
| Proceeding(s): | R1206013 |
| Author: | ALJs Doherty and Park |
| Payer(s): | Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company |

Intervenor Information

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Intervenor | Date Claim Filed | Amount Requested | Amount Awarded | Multiplier? | Reason Change/Disallowance |
| Center for Accessible Technology | 6/1/20 | $ 21,201.50 | $21,087.50 | N/A | *See* CPUC Comments, Disallowances, and Adjustments above  |

Hourly Fee Information

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| First Name | Last Name | Attorney, Expert, or Advocate | Hourly Fee Requested | Year Hourly Fee Requested | Hourly Fee Adopted |
| Melissa | Kasnitz | Attorney | $505 | 2020 | $505 |
| Melissa  | Kasnitz | Attorney | $490 | 2019 | $490 |
| Kate | Woodford | Expert | $160 | 2020 | $160 |
| Kate | Woodford | Expert | $155 | 2019 | $155 |

**(END OF APPENDIX)**

1. All statutory references are to California Public Utilities Code unless indicated otherwise. [↑](#footnote-ref-1)
2. The Office of Ratepayer Advocates was renamed the Public Advocate’s Office of the Public Utilities Commission pursuant to Senate Bill No. 854, which the Governor approved on June 27, 2018.  [↑](#footnote-ref-2)
3. The correct reference Decision is D.19-12-053. [↑](#footnote-ref-3)
4. This information may be obtained through the State Bar of California’s website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch> . [↑](#footnote-ref-4)