

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

March 16, 2022

Agenda ID #20454
Quasi-legislative

~~TO PARTIES OF RECORD IN RULEMAKING 19-02-012:~~

~~This is the proposed decision of Administrative Law Judge (ALJ) Debbie Chiv and ALJ Robert Mason. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's April 21, 2022 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.~~

~~Parties to the proceeding may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure. Electronic copies of comments should also be sent to the Intervenor Compensation Program at icompeordinator@cpuc.ca.gov.~~

~~/s/ ANNE E. SIMON~~
~~Anne E. Simon~~
~~Chief Administrative Law Judge~~

AES:nd3
Attachment

COM/GSH/nd3

PROPOSED DECISION

Agenda ID #20454 (Rev.1)

Quasi-legislative
4/21/2022 Item #18

Decision **PROPOSED DECISION OF ALJs CHIV AND MASON (Mailed 3/16/2022)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement Senate Bill 1376 Requiring Transportation Network Companies to Provide Access for Persons with Disabilities, Including Wheelchair Users who need a Wheelchair Accessible Vehicle.

Rulemaking 19-02-012

**DECISION GRANTING COMPENSATION TO
DISABILITY RIGHTS EDUCATION & DEFENSE FUND
FOR SUBSTANTIAL CONTRIBUTION TO DECISION 20-03-007**

Intervenor: Disability Rights Education & Defense Fund (DREDF)	For contribution to Decision (D.) 20-03-007
Claimed: \$29,040.00	Awarded: \$18,708.00
Assigned Commissioner: Genevieve Shiroma	Assigned ALJs: Debbie Chiv and Robert Mason

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	D.20-03-007 adopts certain rules and requirements for implementation of Senate Bill 1376, the “TNC Access for All Act.” The decision addresses issues scoped for Track 2 of this proceeding, including establishing requirements for the offset eligibility and exemption eligibility process, and the distribution of funds of the Transportation Network Company (TNC) Access for All Fund.
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812¹:

	Intervenor	CPUC Verification
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	5/2/19	Verified
2. Other specified date for NOI:	N/A	
3. Date NOI filed:	5/22/19	Verified
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:	R.19-02-012	Verified
6. Date of ALJ ruling:	3/12/2020	07/08/2019
7. Based on another CPUC determination (specify):		
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:	R.19-02-012	Verified
10. Date of ALJ ruling:	7-8-2019	Verified
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.20-03-007	Verified
14. Date of issuance of Final Order or Decision:	3/19/2020	Verified
15. File date of compensation request:	May 18, 2020	Verified
16. Was the request for compensation timely?		Yes

¹ All statutory references are to California Public Utilities Code unless indicated otherwise.

C. Additional Comments on Part I:

#	Intervenor’s Comment(s)	CPUC Discussion
	<p>SB 1376, which this rulemaking seeks to implement, provides that the Commission shall authorize funds to be distributed to accessibility advocates who provide a substantial contribution to the proceeding. Public Utilities Code § 5440.5(a)(1)(K). (Participation in proceedings before the Commission involving transportation do not usually provide an opportunity for intervenor compensation. See D.14-05-030, issued May 16, 2014 in R.12-12-011.)</p> <p>Consistent with rulemakings in areas regularly covered by the Commission’s intervenor compensation program, the OIR in this proceeding instructed eligible parties to file a Notice of Intent to Seek Intervenor Compensation following the Commission’s standard rules; it also noted that the filing does not guarantee compensation. OIR at p. 19. DREDF timely filed our NOI as indicated above. Subsequently, the Scoping Memo of this proceeding was issued, and it states that the Commission will address issues of intervenor compensation in Track 3. Assigned Commissioner’s Scoping Memo and Ruling, issued May 7, 2019, at pp. 9-10.</p> <p>Nevertheless, after Track 1, because the statute authorizing compensation for this proceeding states that compensation will be provided “in a manner consistent with” the standards of the intervenor compensation statutes, DREDF submitted a request consistent with the standard process for seeking compensation, which authorizes an intervenor to file a request within 60 days after the issuance of a decision to which the intervenor has made a substantial contribution. <i>See</i> Rule 17.3, Commission Rules of Practice and Procedure.</p> <p>DREDF filed the request on 9/3/19 and a Supplement on 1/12/20.</p> <p>DREDF is now submitting this request for Track 2 compensation, consistent with the same process.</p>	<p>Noted</p>

PART II: SUBSTANTIAL CONTRIBUTION

A. 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
<p>Summary and Context: This Compensation Request covers Track 2 of this proceeding, which addressed three issues: Offsets, Exemptions, and Access Provider Disbursements. As discussed in greater detail in Part III below, regarding issue allocation, each filing and other activity taking place in Track 2 addressed all three of these key issues.</p> <p>As was the case in Track 1, DREDF worked with the Center for Accessible Technology (CforAT) and Disability Rights California (DRC), filing jointly as the Disability Advocates in all aspects of Track 2.</p> <p>1. Offsets a. <u>Presence and Availability of WAV Drivers</u> Throughout the proceeding, the Disability Advocates have explained that, in order to obtain an offset, a TNC must affirmatively establish that drivers with WAVs are actually present and available to provide rides to people with disabilities at all times that drivers with standard vehicles are available, which requires the provision of driver availability data by the TNCs. DA 9/27/19 Track 2 Proposal at 2-7. The Disability Advocates urged the Commission to adopt clear benchmarks, such as those proposed by CPED staff, that are based on the response times for standard vehicle</p>	<p>a. <u>Presence and Availability of WAV Drivers</u> The Track 2 Decision acknowledges that the Disability Advocates supported CPED’s proposal. Track 2 Decision at p. 6. The Track 2 Decision notes that the Disability Advocates opposed excluding information such as passenger no-show data that Uber and Lyft proposed excluding, and the Decision agrees with the Disability Advocates’ proposal regarding passenger no-show and cancellations. <i>Id.</i> at pp. 6-7. The Track 2 Decision also agrees with Disability Advocates that hourly data should be reported. <i>Id.</i> at p. 7.</p>	<p>Noted</p> <p>Noted, but see comments in Section III.D.</p>

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p>rides. <i>Id.</i>, DA 10/21/19 Comments, pp. 1-5; DA 10/28/19 Comments, pp. 6-8. [Note: The Disability Advocates commented on each of the issues addressed in Track 2 in nearly all of their Track 2 filings; citations in this column are not exhaustive.]</p> <p>b. <u>Improved Level of Service</u> See response to 1(a), above, explaining that, throughout the proceeding, the Disability Advocates have proposed that the Commission adopt clear benchmarks that are based on response times for standard trips. This included the decile-based approach proposed by CPED. DA 10/21/19 Comments, pp. 1-5 (supporting the CPED proposal).</p>	<p>b. <u>Improved Level of Service</u> The Track 2 Decision recognized the Disability Advocates’ support for CPED’s proposal to use existing trip demand and response times for standard TNC trips to extrapolate a WAV response time for each geographic area, on the grounds that WAV response times must be evaluated with respect to standard vehicle response times. Track 2 Decision at p. 11. The Decision adopts a “clear, data-supported methodology that uses standard trip response times as the basis for calculating WAV response times.” <i>Id.</i> at p. 17. While the <i>Proposed</i> Decision adopted the CPED proposal supported by the Disability Advocates more wholly (thus reflecting the Disability Advocates’ substantial contribution to an even greater extent), the Track 2 Decision reflects the Disability Advocates’ consistent proposal that clear benchmarks based on standard trip response times were essential.</p> <p>The Decision also recognizes that the Disability Advocates had responded to Uber’s objections to CPED’s model by noting that the model built in a lower standard for WAV trips. <i>Id.</i> at p. 11. The Decision adopted this response. <i>Id.</i> at p. 17 (“We reject the argument that CPED’s methodology</p>	

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p>c. <u>Efforts to Promote Available WAV Service</u> The Disability Advocates proposed that the Commission adopt CPUC’s proposal regarding outreach. DA 10/21/19 Comments at p. 13.</p>	<p>assumes demand for WAV services will be the same as for non-WAV services, since CPED expressly includes a lower standard for WAV vehicles.”) The Decision also quotes from the Disability Advocates’ objections to Uber’s and to Lyft’s own proposals. <i>Id.</i> at p. 12, 14-15. The Decision also notes the Disability Advocates’ proposal regarding measurement of response times. <i>Id.</i> at p. 15. The Decision agrees with the Disability Advocates’ position that it should not adopt TNC-specific response times. <i>Id.</i> at pp. 15-16. The Disability Advocates’ input in the process is reflected in the Commission’s decision “to defer adoption of WAV response times on a longer-term basis for offsets, until actual WAV response times can be considered” rather than adopting Uber’s proposed WAV response times on a longer-term basis. <i>Id.</i> at p. 17. The Decision adopts the proposal to provide data on completed trips in deciles. <i>Id.</i> at p. 20. The Decision states that the definition of “response time” was modified from the proposed decision in response to feedback from the Disability Advocates and others. <i>Id.</i> at p. 74.</p> <p>c. <u>Efforts to Promote Available WAV Service</u> The Track 2 Decision adopted the proposal supported by the Disability Advocates. Track 2 Decision at p. 21.</p>	

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p><u>d. Accounting of Funds Expended</u> The Disability Advocates proposed that a full accounting of funds, as required by the statute, must include sufficient detail and documentation to allow the Commission to determine what funds were expended and whether they went directly to the provision of WAV services. DA Track 2 Proposal at pp. 10-11. The Disability Advocates proposed that offsets should only be available for incremental costs above and beyond the costs of standard rides. DA Track 2 Proposal at p. 10; DA 10/21/19 Comments at pp. 14-15. The Disability Advocates objected to Lyft’s argument that all expenses incurred by TNCs in providing WAV service should be reimbursed. DA 11/6/19 Reply Comments to Lyft at pp. 9-10.</p> <p><u>e. Additional Requirements</u> The Disability Advocates proposed that driver training and vehicle inspections be additional requirements. DA Track 2 Proposal at pp. 14-15, 24-25. The Disability Advocates proposed that requests be presented through the Advice Letter Process. DA Track 2 Proposal at pp. 8-9; DA 10/21/19 Comments, pp. 6-8.</p>	<p><u>d. Accounting of Funds Expended</u> The Track 2 Decision acknowledges the Disability Advocates’ proposals. Track 2 Decision at pp. 21-22. In particular, the Decision acknowledges the Disability Advocates’ proposal that offsets should only be available for incremental costs, and cites the Disability Advocates’ examples of such costs. <i>Id.</i> at p. 23. As a result, the Decision provides that “Parties may propose a viable method for calculating incremental costs in Track 3, which the Commission will consider.” <i>Id.</i> at p. 24. The Decision rejects a number of proposed TNC expenses objected to by the Disability Advocates. <i>Id.</i> The Decision states that supporting materials such as invoices must be retained and made available upon request and that a TNC should set up a tracking account for review by Commission staff, reflecting the Disability Advocates’ input regarding the importance of accountability. <i>Id.</i> at p. 25.</p> <p><u>e. Additional Requirements</u> The Track 2 Decision adopts driver training and vehicle inspections as additional requirements. Track 2 Decision at pp. 26-27. It also requires TNCs to provide complaints by category and recognizes the Disability Advocates’ support of that proposal. <i>Id.</i> at p. 28. DA Opening Comments at 8. The Decision acknowledges the Disability Advocates’ proposals regarding quarterly reporting on pp. 29-30. The Decision acknowledges the Disability Advocates’ proposal</p>	

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p><u>f. Retroactive Application of Offsets</u> The Disability Advocates supported retractive application of offsets in conjunction with the first application for offsets. DA Proposal at p. 14.</p> <p><u>g. Access Fund Stability</u> The Disability Advocates proposed that CPED staff provide an estimate of funds available. DA Proposals, pp. 7-8.</p> <p><u>h. Confidentiality</u> The Disability Advocates proposed that data be publicly available given the public interest in the proper expenditure of funds collected for a public purpose. DA Proposal at p. 16, 18, 20. DA 10/21/19 Comments at pp. 8-9; DA 10/28/19 Comments at pp. 4-6.</p>	<p>regarding using the Advice Letter process to submit offset requests, and provides for an Advice Letter process. <i>Id.</i> at pp. 34, 38. The Decision states that the reporting for the Quarterly Reports and Offset Requests was clarified, and CPED was authorized to publish a template of the required information, as a result of requests from the Disability Advocates and SF. <i>Id.</i> at p. 76.</p> <p><u>f. Retroactive Application of Offsets</u> The Track 2 Decision provides for retroactive offsets, and recognizes the Disability Advocates’ support for them. Track 2 Decision at p. 40.</p> <p><u>g. Access Fund Stability</u> The Track 2 Decision provides that CPED shall provide an estimate of the available Access Fund balance, and recognizes that the Disability Advocates had proposed this step. Track 2 Decision at p. 42.</p> <p><u>h. Confidentiality</u> The Track 2 Decision acknowledges the Disability Advocates’ input that because an Offset Request seeks to retain funds collected for a public purpose, information in an Offset Request or Quarterly Report must be publicly disclosed. Track 2 Decision at p. 43.</p>	

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p><u>i. Not Stranding Passengers</u> Further, DREDF and the other disability advocates introduced the concern that passengers could become stranded by poor TNC practices such as cancellations and long response times. See “Can passengers with disabilities become stranded? This goes back to good response times, adequate capacity, and hours of service.” DREDF Presentation, CPUC San Francisco workshop, 12/5/18; DREDF discussion at TNC Access Working Group Meeting 4-10-19.</p> <p>2. Exemptions As with the offset process, the Disability Advocates proposed that the Commission establish clear benchmarks that are based on the response times for standard rides. DA Track 2 Proposal at pp. 15-16; DA 10/21/19 Comments at pp. 5-6. The Disability Advocates proposed that a TNC shall meet the designated level of service for one year. DA 10/21/19 Comments at p. 5. The Disability Advocates proposed that the TNCs submit the same information as required for offset requests. DA Track 2 Proposal at pp. 6, 18. The Disability Advocates proposed that TNCs that receive an exemption should submit quarterly reports during the exemption year, and also that if a TNC fails to satisfy the exemption criteria during the exemption year, it should explain what happened. DA Track 2 Proposal at 18; DA Reply Comments to Lyft at 11.</p>	<p><u>i. Not Stranding Passengers</u> The Commission also states that “We view the reporting of WAV presence and availability information on an hourly basis to be a critical data point, particularly in evaluating the concern for “stranded” WAV customers and whether such customers lack access to WAVs at certain times of the day.” See D.20-03-007 at p. 7.</p> <p>As with the offset process, the Track 2 Decision adopts “clear, appropriate benchmarks that account for standard TNC trip response times” and that “an exemption qualification should have a sufficiently high standard” Track 2 Decision at pp. 45, 46. This is consistent with the Disability Advocates’ recommendations. The Decision makes explicit that Disability Advocates’ input is also reflected in the Decision’s provision that “the Commission will monitor TNC’s WAV response time data and should it be apparent that the WAV response times or Exemption Time Standard for exemption eligibility are not sufficiently high, we may modify these requirements.” <i>Id.</i> at pp. 46, 78. The Decision also provides that a TNC shall meet the designated level of service for one year, and specifically cites the Disability Advocates’ argument (in response to Lyft) that “SB 1376 does not preclude qualifying</p>	<p>Noted, but see comments in Section III.D.</p>

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p>3. Access Provider Disbursement and related matters</p> <p>The Disability Advocates made a number of recommendations to ensure that Access Funds were disbursed consistent with the purpose of providing access to people with disabilities. DA Track 2 Proposal at pp. 19-24; DA 10/21/19 Comments at pp. 15-17; DA 10/28/19 Comments at pp. 10-11. These included proposals that the Commission administer the funds through local planning agencies or other entities and that the Commission retain an independent entity to assist with allocation of funds and other tasks.</p>	<p>for an exemption in any four consecutive quarters, and does not require waiting until July 2021.” <i>Id.</i> at p. 47.</p> <p>The Decision requires TNCs seeking exemptions to submit the same information as required in an offset request for four consecutive quarters. <i>Id.</i> at p. 48. The Decision requires TNCs to submit offset requests annually, and acknowledges that the Disability Advocates proposed annual submission. <i>Id.</i> at pp. 48-49. The Decision requires TNCs that receive an exemption to submit quarterly reports during the exemption year, and also provides that if a TNC fails to satisfy the exemption criteria during the exemption year, it shall explain what happened, and notes that the Disability Advocates recommended those provisions. <i>Id.</i> at pp. 49-50.</p> <p>The Decision acknowledges that “the Commission does not have sufficient resources to effectively and efficiently administer the disbursement of Access Fund payments.” Track 2 Decision at p. 53. The Decision provides that a transit planning agency or other government entity may serve as an Access Fund Administrator, and cites several times to the Disability Advocates’ position in that regard. <i>Id.</i> at pp. 54-58. The Decision “concludes that MPOs, RTPAs, or transportation commissions are best equipped and positioned to administer the Access</p>	<p>Noted, but see comments in Section III.D.</p>

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p>The Disability Advocates urged the CPUC to find that TNC’s were not barred from owning WAV vehicles. DA Proposals at p. 24.</p>	<p>Fund.” <i>Id.</i> at p. 59.</p> <p>The Decision provides that “an independent entity with expertise in accessible transportation should be retained to assist with completing the 2024 Report,” and that “[i]t is also appropriate to retain an independent entity to monitor and audit the collection and expenditure of Access Fund moneys to verify compliance with the Commission’s requirements.” Track 2 Decision at p. 63. The Decision, acknowledges the Disability Advocates’ support of these provisions. The Decision adopts the Disability Advocates’ proposal regarding using Access Funds to pay for these costs, and specifically acknowledges the Disability Advocates proposed this. <i>Id.</i> at pp. 63-64.</p> <p>The Decision acknowledges that it adopted the Disability Advocates’ proposal that “an access provider should submit financial information, such as the information provided in the Caltrans Grant Application for FTA Expanded 5310 Projects.” <i>Id.</i> at p. 71.</p> <p>The Decision explicitly agrees with the Disability Advocates “that SB 1376 does not preclude the Commission from applying different requirements for access providers and TNCs.” Track 2 Decision at p. 77.</p> <p>The Track 2 Decision provides that TNCs “may chooses to own vehicles to provide WAV service, or to contract with a third-party</p>	

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
	transportation provider to provide WAV services” if they obtain a TCP permit. Track 2 Decision at p. 52.	

B. 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	No	No
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Yes
<p>c. If so, provide name of other parties: Center for Accessible Technology (CforAT), Disability Rights California (DRC), San Francisco Municipal Transportation Agency (SFMTA).</p> <p>In addition, the San Francisco Taxi Workers Alliance (SFTWA) often sought similar outcomes.</p>		Verified
<p>d. Intervenor’s claim of non-duplication: Over the course of this proceeding, DREDF has worked regularly with the other disability advocates by preparing joint filings, sharing responsibilities, and conferring between the parties in order to work efficiently and to avoid duplication. Each filing was coordinated between the Disability Advocates (DREDF, DRC, and CforAT), with assignments for separate research and drafting responsibilities and collaborative review and finalization of documents. Through coordination of the different areas of expertise of each group, the Disability Advocates were able to address issues in this docket more effectively and efficiently than if each had tried to work alone.</p> <p>Among the Disability Advocates, DREDF and DRC took the lead in developing policy discussions and recommendations on substantive matters.</p>		Noted

² The Office of Ratepayer Advocates was renamed the Public Advocate’s Office of the Public Utilities Commission pursuant to Senate Bill 854, which the Governor approved on June 27, 2018.

	Intervenor’s Assertion	CPUC Discussion
<p>This meant, for instance, that the Disability Advocates would brainstorm responses to the Commission’s questions and then DRC and DREDF would dive more deeply into the substance of the responses, according to the particular expertise of each advocate.</p> <p>DREDF (along with DRC) relied on CforAT to guide and advise on procedural matters throughout Track 2 to ensure that the shared positions were properly introduced into the record.</p> <p>As appropriate, the Disability Advocates also conferred with SFMTA on various issues of agreement to complement each other’s positions while avoiding duplication of effort.</p> <p>Overall, DREDF worked effectively to avoid duplication and to ensure that our input served to complement or supplement the input of other parties that share similar interests to our own. To the extent that some overlap is unavoidable, DREDF took all reasonable steps to minimize it, and our request for compensation should not be reduced on that basis.</p>		

C. Additional Comments on Part II:

#	Intervenor’s Comment	CPUC Discussion
	<p><u>Substantial Contribution:</u> The statutory definition of “substantial contribution” in Section 1802 of the Pub. Util. Code states that a contribution results because the Commission “has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer.”</p> <p>The Commission has interpreted the “in whole or in part” provision, in conjunction with Section 1801.3, so as to effectuate the legislature’s intent to encourage effective and efficient intervenor participation. The Commission has established as a general proposition that when a party makes a substantial contribution in a multi-issue proceeding, it is entitled to compensation for time and expenses even if it does not prevail on some of the issues. See, for example, D.98-04-028 (awarding an intervenor full compensation in competition transition charge proceeding, even though the intervenor did not prevail on all issues); D.98-08-016, pp. 6, 12 (awarding an intervenor full compensation in Southern California Gas Company</p>	Noted

#	Intervenor’s Comment	CPUC Discussion
	<p>performance-based ratemaking proceeding); D.00-02-008, pp. 4-7, 10 (awarding an intervenor full compensation even though the intervenor unsuccessfully opposed settlement).</p> <p>In Track 2 of this proceeding, the Commission adopted a number of policy recommendations put forward by the Disability Advocates. DREDF should receive full compensation even though not all of our recommendations were adopted in toto.</p>	

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

	CPUC Discussion
<p>a. Intervenor’s claim of cost reasonableness:</p> <p>The TNC Access for All Act is an important mechanism to achieve a goal of providing equal access to transportation to Californians with disabilities. It is vital to improve transportation options across the state for people with disabilities, and as TNCs become more widespread and, for many, a primary means of transportation, it is essential to require TNCs to provide accessible services to people with disabilities, including wheelchair users.</p> <p>In working to support the effective implementation of the statute and ensure transportation access for people with disabilities, DREDF has provided significant consumer benefits. In light of the importance of the purpose of the TNC for All Act and the resulting Access for All Fund to DREDF’s constituency, and the benefits of an effectively implemented program, the Commission should find that the costs of participation by DREDF are reasonable.</p> <p>DREDF cannot assign a dollar value to the benefits that will be obtained by our efforts for impacted customers. However, the value of improved access to reliable transportation is considerable, especially to our constituency, which faces barriers to reliable transportation on a regular basis. And the value of improve access to reliable transportation accrues considerable benefits to all Californians, since people with disabilities have families, friends, and social, cultural, and economic links throughout the social fabric of California. Moreover, the majority of the parties commenting on this matter are transportation providers or government entities. DREDF and the other Disability</p>	<p>Noted</p>

	CPUC Discussion
<p>Advocates provided unique input to the Commission: the perspective of people with disabilities themselves—i.e., those who will hopefully be at the center of activities under the TNC Access for All Act.</p>	
<p>b. Reasonableness of hours claimed: As noted above with regard to duplication of effort among parties, DREDF participated effectively while maintaining a reasonable commitment of resources by working in conjunction with the other disability advocates and coordination with SFMTA.</p>	Noted
<p>c. Allocation of hours by issue: All DREDF merits time included in this compensation request for our contributions to D.20-03-007 was focused on Track 2 issues in this proceeding, which were (1) Offsets, (2) Exemptions, and (3) Access Provider Disbursements.</p> <p style="text-align: center;">Golden Time – 2019 (57 hours total)</p> <p>Time in 2019 spent working on each filing and other activity during Track 2 (such as the TNC Access Working Group and the San Diego Workshop) addressed all three of the key Track 2 issues (Offsets, Exemptions, and Access Provider Disbursements).</p> <p>DREDF estimates that our time within Track 2 can be broken down among the three issues as follows:</p> <ul style="list-style-type: none"> • Offsets: 65% • Exemptions: 15% • Access Provider Disbursements 20% <p style="text-align: center;">Golden Time – 2020 (11 hours total)</p> <p>Time in 2020 spent working on each filing and other activity during Track 2 addressed all three of the key Track 2 issues (Offsets, Exemptions, and Access Provider Disbursements).</p> <p>DREDF estimates that our time within Track 2 can be broken down among the three issues as follows:</p>	Verified

		CPUC Discussion
• Offsets:	65%	
• Exemptions:	15%	
• Access Provider Disbursements	20%	

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Marilyn Golden, Expert 1	2019	57	\$350.00	See Rate Justification for Marilyn Golden in Comment 1 below	\$19,950.00	40.8 [1,2,3,4]	\$350.00 ³	\$14,280.00
Marilyn Golden, Expert 1	2020	11	\$360.00	Anticipated COLA increase	\$3,960.00	6.3 [5]	\$360.00	\$2,268.00
Subtotal: \$23,910.00						Subtotal: \$16,548.00		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Marilyn Golden	2020	28.5	\$180.00 (See comment 1 below)	½ hourly rate	\$5,130.00	12.0 [6]	\$180.00	\$2,160.00
Subtotal: \$5,130.00						Subtotal: \$2,160.00		
TOTAL REQUEST: \$29,040.00						TOTAL AWARD: \$18,708.00		
<p>*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. 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</p>								

³ See D.21-07-027.

CLAIMED		CPUC AWARD	
<p>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>**Travel and Reasonable Claim preparation time are typically compensated at ½ of preparer’s normal hourly rate</p>			
ATTORNEY INFORMATION			
Attorney	Date Admitted to CA BAR ⁴	Member Number	Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation
n/a			

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	Detailed Time Records (Merits and Compensation)
Comment 1	<p>Rate Justification for Marilyn Golden:</p> <p>DREDF’s Track 1 filing explained our rate justification, repeated here:</p> <p>Marilyn Golden is a Senior Policy Analyst at the Disability Rights Education & Defense Fund (DREDF), a leading national law and policy center on disability civil rights, with offices in Berkeley, California and Washington, D.C. She joined DREDF in 1988, having already established expertise in the area of disability transportation.</p> <p>At DREDF, Golden has been closely involved with the Americans with Disabilities Act (ADA) throughout all the stages of its proposal and passage and now during its implementation, with a special focus on the area of transportation. She directed the ADA Training and Information Network, a training project funded by the Equal Employment Opportunity Commission (EEOC) and U.S. Department of Justice (USDOJ) from 1992 – 1994 to develop a network of 400 ADA specialists with disabilities. In the same project, she further served as the lead trainer for each of its eight week-long training programs, always serving as the leading presenter in the area of transportation. She has directed and led numerous other in-depth ADA training programs that have given thousands of people comprehensive</p>

⁴ This information may be obtained through the State Bar of California’s website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

Attachment or Comment #	Description/Comment
	<p>knowledge on how to make the ADA a reality, with a particular focus on transportation. She is the principal author of the DREDF publication <i>The ADA, an Implementation Guide</i>, DREDF’s highly respected ADA curriculum.</p> <p>Since the ADA’s passage, Ms. Golden has continued to play a key role in policy development on a federal level in the areas of transportation and architectural barriers. She was appointed by President Bill Clinton to the U.S. Access Board in 1996, and served until 2005, as a strong and effective advocate for people with disabilities. She was recognized as a White House Champion of Change in Transportation by President Barack Obama in 2014. She’s been a member of three federal policy advisory committees: the Rail Vehicle Accessibility Advisory Committee (U.S. Access Board, 2013-2015), the ADAAG (Americans with Disabilities Act Architectural Guidelines) Review Advisory Committee (U.S. Access Board, 1994 – 1996), and the Urban Mass Transportation Administration’s (today called the Federal Transit Administration) ADA Federal Advisory Committee to assist in developing the U.S. Department of Transportation ADA regulation (U.S. Department of Transportation, 1991). She has also led the struggle for many of the policy victories during and since the ADA to improve transportation options for people with disabilities.</p> <p>Golden was the principal author of the National Council on Disability’s 2015 report, <i>Transportation Update: Where We’ve Gone and What We’ve Learned</i>.</p> <p>She served as Project Manager for a Federal Transit Administration (FTA) 2015 research study, <i>Accessible Transit Services for All</i>, which identified practices that have reduced ADA paratransit costs, improved efficiency, and increased the mobility of people with disabilities.</p> <p>She was the principal author of the Topic Guides on ADA Transportation, also for the Federal Transit Administration (FTA), and published in 2010, as well as leading or participating in other transportation studies, including several for the national Transportation Research Board.</p> <p>DREDF requested and was granted an hourly fee for Marilyn Golden of \$350/hour, reflecting her status as a non-attorney expert, and given her lengthy history as a high-level expert in the areas of disability transportation rights and disability access to transportation.</p> <p>DREDF has included hours at 50% of Marilyn Golden’s hourly rate that</p>

Attachment or Comment #	Description/Comment
	DREDF is claiming for development of this compensation claim.

D. CPUC Comments, Disallowances, and Adjustments

Item	Reason
[1] Vague Tasks	DREDF claimed 4.0 hours worked on September 17 and 18, 2019, for reviewing and developing responses to technical comments. It is not clear what comments DREDF is referring to; there were no comments filed from 6/19/19 to 9/26/19. As such, a 4.0-hour deduction was applied.
[2] Excessive Hours	It is clear that DREDF is rounding up to the nearest half hour increment. First, DREDF claimed 1.5 hours for a 9/19/19 phone conference, but the other two Disability Advocates intervenors who submitted claims reported 1.1 and 1.2 hours for this same phone call. Second, DREDF claimed 1.5 hours for a 10/3/19 phone conference, but the other two Disability Advocates intervenors who submitted claims reported 1.2 hours for this same phone call. Third, the other intervenors that make up the Disability Advocates reported 5.0 hours each to attend the San Diego workshop on 10/10/2019; from DREDF's clam and timesheets, it is not clear why DREDF claimed 6.5 hours for "San Diego workshop." Thus, time for these three tasks was reduced to 1.1 hours, 1.2 hours, and 5.0 hours accordingly.
[3] Outreach Effort	DREDF engaged in the outreach to the disability community; however, generally, outreach effort is non-compensable. The record of the proceeding does not reflect that the Commission entrusted DREDF with outreach activities nor that these activities contributed to DREDF's input to D.20-03-007. A total of 2 hours is disallowed. (See time records' entries of September 30, 2019.)
[4] Duplication of Efforts	DREDF reported 31.5 hours for time spent working on the following filings: Disability Advocates' Track 2 Proposal, filed 9/30/2019 (25 pages); Disability Advocates' Comments on Track 2 Proposals and October 10, 2019 Workshop, filed 10/21/2019 (17 pages); Disability Advocates' Reply Comments on Track 2 Proposals and October 10, 2019 Workshops, filed 10/28/2019 (12 pages); and Disability Advocates' Response to Reply Comments of Lyft, filed 11/06/2019 (13 pages). All of these filings were signed, filed, and served by another intervenor, Center for Accessible Technology; and other Disability Advocates claimed substantial hours for working on these same filings. DREDF did not indicate what specific contributions it made to the filings while simultaneously avoiding duplication efforts with the other Disability

Item	Reason
	Advocates. Thus, a 8.0-hour deduction was applied.
[5] Duplication of Efforts	DREDF reported 10 hours for time spent working on the following filings: Reply Comments on P.D. on Track 2 Issues filed 03/03/2020 (6 pages) & Disability Advocates' Motion to Strike Reply Comments of Lyft filed 03/05/2020 (2 pages). All of these filings were signed, filed, and served by another intervenor, Center for Accessible Technology; and other Disability Advocates claimed substantial hours for working on these same filings. DREDF did not indicate what specific contributions it made to the filings while simultaneously avoiding duplication efforts with the other Disability Advocates. Thus, a 4.7-hour deduction was applied.
[6] Excessive Claim Preparation Hours	DREDF claimed 28.5 hours for claim preparation. As noted above in the discussion on excessive hours, it is clear that DREDF is rounding up to the nearest half hour increment. This may have contributed to the excessive claim preparation hours, in comparison to other Disability Advocates. For example, one of the other Disability Advocated claimed approximately 11 hours for claim preparation. Moreover, many portions and sections in DREDF’s claim are cut-and-paste from similar portions and sections used by the other Disability Advocates. The fact that the Disability Advocates were collaborating and sharing drafts on their respective claims is further indication that DREDF’s claim preparation hours are excessive. Thus, a 16.5-hour deduction was applied.

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))?	No

If not:

<u>Party</u>	<u>Comment</u>	<u>CPUC Discussion</u>
	<u>No comments were filed.</u>	

FINDINGS OF FACT

1. Disability Rights Education & Defense Fund has made a substantial contribution to D.20-03-007.
2. The requested hourly rates for Disability Rights Education & Defense Fund'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, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$18,708.00.

CONCLUSION OF LAW

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

ORDER

1. Disability Rights Education & Defense Fund shall be awarded \$18,708.00.
2. Within 30 days of the effective date of this decision, Public Utilities Commission Transportation Reimbursement Account shall pay Disability Rights Education & Defense Fund 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 August 1, 2020, the 75th day after the filing of Disability Rights Education & Defense Fund's request, and continuing until full payment is made.
3. The comment period for today's decision is not waived.

This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D2003007		
Proceeding(s):	R1902012		
Author:	ALJ Chiv and ALJ Mason		
Payer(s):	Public Utilities Commission Transportation Reimbursement Account		

Intervenor Information

Intervenor	Date Claim Filed	Amount Requested	Amount Awarded	Multiplier ?	Reason Change/ Disallowance
Disability Rights Education & Defense Fund	5/18/20	\$29,040.00	\$18,708.00	No	See CPUC Comments, Disallowances, and Adjustments section above.

Hourly Fee Information

First Name	Last Name	Attorney, Expert, or Advocate	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Marilyn	Golden	Expert	\$350	2019	\$350
Marilyn	Golden	Expert	\$360	2020	\$360

(END OF APPENDIX)

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