

MAR 14 1991

Decision 91-03-018 March 13, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 General Telephone Company of)
 California, a California Corporation)
 (U 1002 C), for authority to increase)
 and/or restructure certain intrastate)
 rates and charges for telephone)
 services.)

Application 87-01-002
(Filed January 5, 1987)

O P I N I O N

On February 27, 1989, the "Public Advocates/Minority Coalition (Public Advocates) Request for Compensation Pursuant to Rule 76.56" was filed. In its filing, Public Advocates seeks compensation for its work on behalf of the American G.I. Forum, the Filipino-American Political Association, and the League of United Latin American Citizens on two issues: (1) the implementation by the utility, now known as GTE California, Inc. (GTEC) of the Commission's policy on women/minority business enterprise (WMBE) and (2) the provision of bilingual telephone services. These two issues were addressed and resolved in the Commission's Third Interim Opinion on the general rate case application of GTEC, D.89-01-015.

In D.89-01-015, Public Advocates was found to be eligible for compensation as an intervenor on those two issues. In its request for compensation under consideration here, Public Advocates claims that its participation in the proceeding did not duplicate that of any other party. Public Advocates maintains that it alone was involved in the negotiations which resulted in a stipulation with GTEC on the issue of bilingual services. Public Advocates

asserts that the areas of its participation consisted of the verification of GTEC's WMBE program data, the setting of WMBE goals, and the improvement of GTEC's use of WMBE firms. Public Advocates claims that the testimony of the Commission's Division of Ratepayer Advocates (DRA) on WMBE was not concerned with these matters.

Public Advocates believes that the Commission's discussion of the bilingual and WMBE issues in D.89-01-015 demonstrate that Public Advocates' contribution to the proceeding has substantially assisted the Commission in making its decision. The intervenor asserts that its participation was aimed at achieving four goals: (1) to require GTEC to set specific, substantial, and long-term WMBE goals, (2) to have GTEC substantially increase its award of contracts to blacks in the immediate term, (3) to require GTEC to clarify its practices with respect to minority, as opposed to women-owned businesses, and (4) to ensure that the data reported to the Commission was accurate.

Public Advocates was found to be eligible for compensation based on an estimated cost to intervene of \$31,000 in D.89-01-015. The actual compensation sought is \$26,781. This figure includes the costs of an attorney, his law student and paralegal staff, two expert witnesses, and travel and office expenses. A detailed description of the services and expenditures was included in the request for compensation. For work performed in WMBE proceedings during 1985 and 1986, the attorney was compensated at the hourly rate of \$150. The requested rate of \$165 per hour reflects the awarded rate plus an adjustment for inflation. Affidavits from two attorneys who appear before this Commission attest that the market rate for an attorney having the experience of Public Advocates' attorney is \$225 to \$250 per hour.

The DRA filed a response to the request for compensation in which it urged the Commission to grant Public Advocates' request in full. DRA believes that Public Advocates introduced a

substantial amount of detailed evidence on the issue of WMBE which DRA was unable to obtain and review. DRA believes that Public Advocates made a contribution that DRA was unable to make.

Discussion

In order to receive compensation, the intervenor must demonstrate that the decision adopted one or more factual contentions, legal contentions, or specific policy or procedural recommendations that it presented. In D.89-01-015, we found that:

"GTEC's WMBE program fell far short of achieving any reasonable goal for the use of women and minority owned business enterprises in the procurement of contracts from GTEC. It is equally obvious that GTEC's method of reporting its WMBE programs and achievements as totals rather than by component parts served to mask the true picture, particularly with respect to minority business enterprises."

The Commission's findings are based on the evidence and arguments advanced by Public Advocates on behalf of its clients. Moreover, the findings are consistent with the showings that Public Advocates proposed to make in its request for finding of eligibility for compensation.

We find that Public Advocates has made a substantial contribution to the Commission's conclusion that GTEC's WMBE program was deficient; that in response to Public Advocates' showing, GTEC has adopted revisions to its WMBE program to remedy those shortcomings in an agreement filed with the Commission; and that GTEC also voluntarily agreed to enhance bilingual services as a result of Public Advocates' participation in the rate case. The realization of the Commission's policy goals by the voluntary agreement of a party in response to evidence is as beneficial to the public interest as the implementation of policy by a Commission order based on findings and conclusions. We find that it was Public Advocates' contribution of data and analysis to this proceeding that revealed the deficiencies in GTEC's WMBE program

and bilingual services. We also find that Public Advocates' recommendations facilitated the improvement of GTEC's WMBE program and bilingual service through agreement and Commission order.

We also find that there was no duplication of efforts between the DRA and Public Advocates, who were the only two parties who advocated improvements to GTEC's WMBE program.

As to the rate of compensation, we find \$165 per hour to be a reasonable rate of compensation for Public Advocates' attorney. Our prior decisions have established his hourly rate at \$150 per hour. The increase to account for inflation is a reasonable one. We note that the resultant rate of compensation is within the range of rates awarded to attorneys who appear at the Commission. The amount awarded is reasonable in light of the services undertaken by Public Advocates in this case.

Rule 76.58 provides that a determination of whether or not an intervenor has made a substantial contribution to the Commission's decision shall be made within 75 days after filing of a request for compensation. In D.86-08-023, we granted the intervenor interest on the amount of compensation to alleviate any financial burden resulting from the late issuance of a compensation order. This policy has been observed consistently whenever the Commission's decision awarding compensation was not issued within the period set by Rule 76.58. (See, e.g., D.89-05-072, award to TURN for contribution to decision on SCE application to increase rates.)

This decision awarding Public Advocates compensation is being issued after the 75-day period. Therefore, Public Advocates should receive interest on the \$26,781 awarded by this decision for the period beginning on May 13, 1989 and continuing until full payment of the award is made. The interest shall be calculated at the three-month commercial paper rate that existed during that period.

Findings of Fact

1. Public Advocates was found to be eligible for intervenor compensation for its participation in A.87-01-002 by D.89-01-015.

2. Public Advocates caused the utility, now named GTE California, Inc. (GTEC) to agree to improve bilingual telephone services through its allegations and negotiations.

3. Testimony of Public Advocate's witnesses formed the basis of the Commission's conclusions that the women/minority owned business (WMBE) program of GTEC was inadequate.

4. Testimony and negotiations by Public Advocates formed the basis of an agreement by GTEC to improve its WMBE program.

5. The WMBE program embodied in the agreement was found in D.89-01-015 to implement the Commission's WMBE goals more effectively than GTEC's then-existing WMBE program.

6. Public Advocates has made a substantial contribution to the Commission's resolution of the bilingual telephone service and WMBE issues that were reviewed in A.87-01-002.

7. There has been no duplication of effort by Public Advocates and any other party.

8. The requested amount of \$26,781 is a reasonable amount of compensation.

Conclusions of Law

Public Advocates should be awarded the amount requested for its substantial contribution to D.89-01-015.

O R D E R

IT IS ORDERED that:

1. The request of Public Advocates for intervenor compensation is granted.

2. Within 30 days of the effective date of this order, GTE California, Inc. shall pay \$26,781 to Public Advocates.

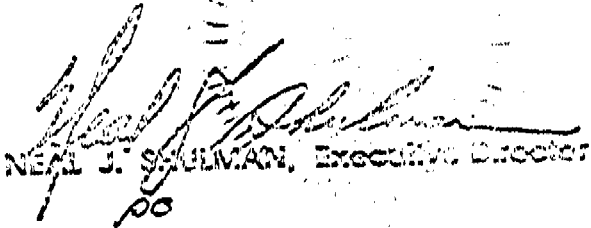
3. GTE California, Inc. shall pay interest on \$26,781 to Public Advocates. The interest shall be calculated from May 13, 1989 up to the date on which full payment of the amount is made, and shall be calculated at the three month commercial paper rate in existence during the period of interest accrual.

This order is effective today.

Dated March 13, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
G. MITCHELL WILK
JOHN B. OHANIAN
DANIEL WM. FESSLER
NORMAN D. SHUMWAY
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


NEAL J. SCHULMAN, Executive Director