

L/afm/cdl

Decision 91-11-030

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application)
of PACIFIC BELL (U 1001 C), a)
corporation, for authority to)
increase intrastate rates and)
charges applicable to telephone)
services furnished within the)
State of California.)
_____)

Application 85-01-034
(Filed April 11, 1988)

And Related Proceedings.)
_____)

I.85-03-078
OII 84
Case 86-11-028

**ORDER MODIFYING DECISION
91-07-001 AND DENYING REHEARING**

Public Advocates, Inc. (Public Advocates), on behalf of Minority Coalition, has filed an application for rehearing of Decision (D.) 91-07-001. In D.91-07-001, we found that Public Advocates had made a substantial contribution to this proceeding and awarded Public Advocates compensation in the amount of \$155,728.

Public Advocates alleges that the Commission erred in disallowing 25% of the hours claimed for work on women and minority business enterprises (WMBE) contracting. The record supports the disallowance because much of the testimony prepared by Public Advocates on the WMBE issues was not received in evidence. Because the amount of attorney hours spent on prepared testimony was not set forth in Public Advocates' request for compensation, a 25% reduction was made, pursuant to Public Utilities Code section 1802(a).

Public Advocates also contends that the Commission erred in disallowing 50% of the hours spent on bilingual issues. The record in this proceeding indicates that much of Public

Advocates' efforts were duplicative in this area. Such duplication requires a reduction in hours pursuant to Rule 76.53(c) of the Commission's Rules of Practice and Procedure.

Public Advocates further alleges that the Commission erred in disallowing 39 out of 59 hours claimed for preparation of requests for eligibility and compensation and its determination to deny future requests for compensation for preparation of fee requests. Prior Commission decisions and the record in this case support the Commission's view that 20 hours of attorney time for preparation of fee requests is reasonable. However, upon reconsideration, we believe that D.91-07-001 should be modified to indicate that, notwithstanding our belief that the award of "fees on fees" may be unnecessary and inappropriate as a matter of policy, we will continue to consider reasonable fee requests for services relating to the preparation of eligibility and compensation filings.

The Commission still has significant concerns regarding this issue. However, we recognize that our statement that fees on fees would no longer be awarded may have come as a surprise to interested parties. In order to ensure that affected parties receive prior notice and an opportunity to be heard, we intend to issue an order instituting rulemaking for the purpose of reviewing the fees on fees issue.

Finally, Public Advocates asserts that the Commission erred in awarding an hourly rate of \$150 for its attorney, rather than the \$295 hourly rate claimed by Public Advocates. The \$150 hourly rate comports with the hourly rate awarded Public Advocates' attorney in prior proceedings for work performed between 1985 and 1987 and meets the requirements of Public Utilities Code section 1806.

Besides disposing of the issues raised by Public Advocates, the decision should also be modified to correct an error in citation.

Therefore, It IS ORDERED that D.91-07-001 is modified as follows:

1. On page 10, in the first full paragraph, line 3, "D.89-07-046" is deleted and replaced with "D.89-06-051."
2. On page 12, the second paragraph is modified to read:

"It has been four full years since we stated our expectation that the hours claimed for fees on fees should decrease. Despite our statement, we have been presented in many subsequent cases with substantial claims for fees on fees. Because most intervenors keep accurate records and detailed time records and use standardized compensation pleadings, the cost of calculating and submitting fee requests should be minimal. We therefore intend to issue an order instituting rulemaking for the purpose of reviewing the policy of authorizing fees on fees."

IT IS FURTHER ORDERED that rehearing of D.91-07-001 as modified herein is denied.

This order is effective today.

Dated November 6, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

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


NEAL J. SHULMAN, Executive Director