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Decision 91-12-034 December 18, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of AT&T Communications )  
of California Inc. (U 5002 C) for )  
Authority to Increase the Rate for )  
Intrastate InterLATA Directory )  
Assistance Service. )

**ORIGINAL**

Application 90-02-060  
(Filed February 26, 1990)

(See Decision 91-03-016 for appearances.)

OPINION ON REHEARING

Toward Utility Rate Normalization (TURN) has filed an application for rehearing of Decision (D.) 91-07-048. In that decision, the Commission found that TURN had made a substantial contribution to D.91-03-016, which denied Application (A.) 90-02-060 of AT&T Communications of California, Inc. to increase rates for directory assistance calls in California. We awarded TURN compensation in the amount of \$12,017, but we denied compensation for time spent preparing requests for eligibility and compensation, pursuant to our decision in D.91-01-007. In D.91-01-007, we stated that "in the future, we will not authorize compensation for the cost of calculating and submitting a fee request." (D.91-01-007, p. 12.)

In response to TURN's application for rehearing, we granted limited rehearing of D.91-07-048 "in order to determine the reasonableness of TURN's request for 15.25 hours of attorney time and 2.5 hours of witness time for preparation of [TURN's] requests for eligibility and compensation." (D.91-11-027, p. 2.) We instructed the assigned Administrative Law Judge to review the

record and make recommendations in light of our further consideration of the "fees on fees" policy in this and in other proceedings.<sup>1</sup>

Based on the findings and conclusions set forth below, we now grant additional compensation of \$2,715 to TURN, and we amend the ordering paragraphs of D.91-07-048 to include this additional compensation.

Findings of Fact

1. The attorney for TURN and TURN's expert witness each maintained detailed timesheets describing their work in A.90-02-060.
2. TURN's attorney spent half an hour on December 18, 1990, preparing the initial Request for Finding of Eligibility required by Rule 76.54 of the Rules of Practice and Procedure.
3. TURN's attorney spent half an hour on April 5, 1991, arranging for an affidavit by a partner in a San Francisco law firm bearing on the issue of attorney qualifications and hourly billing rates.
4. TURN's attorney spent an hour and a half on April 15, 1991, preparing a declaration that accompanied TURN's Request for Compensation.
5. Between April 10 and April 22, 1991, TURN's attorney spent an additional 12.75 hours preparing his organization's 30-page Request for Compensation. This included a detailed

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1 In D.91-11-030, we stated 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." (D.91-11-030, p. 2.) We noted 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.

analysis of TURN's contributions in resolving issues in A.90-02-060, an itemization of services and expenditures, an analysis of whether TURN's evidence duplicated that of other parties, and a justification for the hourly fees claimed by TURN's attorney and expert witness, accompanied by declarations and supporting exhibits.

6. Timesheets for TURN's attorney show a total of 15.25 hours spent in preparing TURN's requests for findings of eligibility and compensation.

7. TURN's expert witness spent one hour on April 11, 1991; half an hour on April 17, 1991, and one hour on April 19, 1991, preparing portions of TURN's Request for Compensation.

8. TURN's expert witness prepared a sworn declaration attesting to her qualifications and to her work in preparing to testify in A.90-02-060, and she arranged for and presented a declaration by a former employer supporting the fee request.

9. Timesheets for TURN's expert witness show a total of 2.5 hours spent by her in preparing portions of TURN's requests for findings of eligibility and compensation.

10. No party has challenged the reasonableness of the time spent by TURN in preparing its requests for findings of eligibility and compensation, and no opposition to TURN's fee request has been filed.

#### Conclusions of Law

1. A total of 15.25 hours of attorney time and 2.5 hours of expert witness time spent on preparing requests for eligibility and compensation that comply with and meet the requirements of Rules 76.51 through 76.58 should be deemed reasonable, given the extent of participation by TURN and the complexity of issues addressed in A.90-02-060.

2. The ordering paragraphs of D.91-07-048 should be amended to grant TURN compensation of \$14,732, including \$2,715 for time reasonably spent in preparing eligibility and compensation

requests. Article 2.4 in the text of the decision and Conclusion of Law No. 6 should be deleted.

3. This order should be effective today to minimize delay in recovery of the compensation award.

ORDER

IT IS ORDERED that:

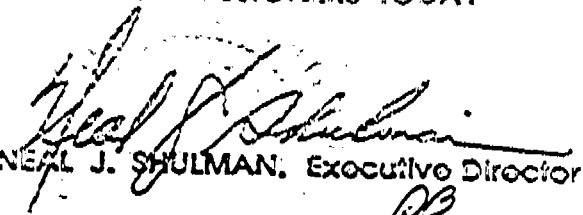
1. Decision (D.) 91-07-048 is amended to grant the request of Toward Utility Rate Normalization (TURN) for compensation in the amount of \$14,732, including a total of \$2,715 in time reasonably spent in preparing the eligibility and compensation requests in Application 90-02-060. D.91-07-048 is further amended to delete Article 2.4 in the text of the decision and Conclusion of Law No. 6.

2. AT&T Communications of California, Inc., shall, within 10 days of the effective date of this order, remit to TURN \$2,715, plus interest calculated at the 3-month commercial paper rate, after July 6, 1991, until full payment of \$14,732 plus interest is made.

This order is effective today.

Dated December 18, 1991, at San Francisco, California.

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

  
NEAL J. SHULMAN, Executive Director

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