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Decision 95-08-051 August 11, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Alternative Regulatory Frameworks for Local Exchange Carriers.	I.87-11-033 (Filed November 25, 1987)
	Application 85-01-034 Application 87-01-002
And Related Matters.	I.85-03-078 Case 86-11-028 I.87-02-025 Case 87-07-024

ORIGINAL

OPINION ON INTERVENOR COMPENSATION

Summary

Intervenor compensation of $391,757.25 is awarded to Toward Utility Rate Normalization (TURN). Intervenor compensation of $5,728.04 is awarded to Senior Utility Ratepayers of California (SUROC). Latino Issues Forum and American G.I. Forum (LIF) is determined to qualify for intervenor compensation, the award to be made following a supplemental report from LIF.

Background

Notices of intent to claim compensation were filed by LIF, TURN, and SUROC. (Sec. 1804(a).)[1] Each of these parties was declared eligible for compensation. (TURN, Decision (D.) 88-07-035; LIF, D.92-04-030; SUROC, D.92-08-034.) (Sec. 1804(b).) Now, following issuance of D.94-09-065, we must rule on their requests for compensation. (Sec. 1804(c).)

1 All references are to the Public Utilities Code unless otherwise noted.

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TURN

TURN is an organization with a long history of representing residential and small business ratepayers in proceedings before this Commission. Its participation in this proceeding was in furtherance of this mission. TURN requests compensation of $522,343 for its participation in this proceeding, notwithstanding its admission that many of its positions were not adopted by the Commission. TURN points to the exception commonly known as the "Redwood Alliance Doctrine" (D.91-11-070), which permits compensation where only a portion of the customer's presentation has been adopted by the Commission. We have previously noted that the Doctrine has been incorporated into the revised portions of Sec. 1802(h). (D.93-10-074, mimeo. at 5-6.)

Neither GTE California (GTEC) nor Pacific Bell (Pacific) opposes an award of compensation to TURN, though both advocate less than the full request be granted. On the basis of the above Commission discussion of Sec. 1802(h) and the concurrence of the two utilities who filed responses to TURN's request for compensation, we conclude that TURN has made a substantial contribution in this proceeding. We now shall address the issue of the amount of compensation to be awarded.

Pacific urges that TURN be awarded only one-third of its request. GTEC proposes a maximum of two-thirds. Both point to the fact that the Commission did not adopt the major positions advocated by TURN. Both refer to D.91-11-070, wherein the Commission refused to grant the full amount of compensation claimed because the major positions of the claimant were not adopted. Neither finds fault with the quality or efficiency of TURN's participation.

TURN, in its reply, indicates that D.91-11-070 was decided prior to the 1992 amendments to the intervenor compensation statutes (Secs. 1801, et seq.) TURN states, "With these amendments, the Commission may award full compensation even when an intervenor is only partially successful. (Reply at 4.) TURN is correct in this assertion. Under the amendment to Sec. 1802(h) the Commission "may" award full compensation to an intervenor who is only partially successful. The key is that this authority is permissive, not mandatory. (Sec. 14.) The Commission has discretion as to the amount of compensation it considers reasonable. In arriving at this determination the Commission considers the market rate for comparable services performed by the claimant, the degree that its decision relies on law, facts, and policy, or procedural contentions of a claimant, the quality of the performance of that claimant, and illumination of issues by the claimant.

We shall discuss only the first two of these criteria. Neither Pacific nor GTEC challenges the quality of TURN's participation or the value to the record of the many issues presented. The Commission has no hesitation of its own on these points.

TURN claims that the hourly rates requested for its attorneys are identical to those already approved and adopted by the Commission in D.93-10-045 and D.94-09-022 for these same attorneys. There was no challenge to those rates in this proceeding.

GTEC asserts that the compensation claimed for Costa should be reduced from $125 per hour to $120 for 1993-4 and from $115 to $110 for 1991-2. GTEC's contention was that Costa, though competent, was not sufficiently experienced in telephone proceedings to warrant the full fee claimed. We note that Costa has an advanced degree and had worked in the field of telecommunications for several years prior to joining TURN. This work was on both the regulatory and the research levels. She came to TURN with a grounding in telecommunications language and policy. We shall make no change in the hourly compensation for Costa.

There is no dispute that the Commission did not adopt many of the contentions of TURN, including those that were most ardently presented. This is a prime criterion in the definition of "substantial contribution." (Sec. 1802(h).) All things being equal, a claimant whose contentions were adopted has a better claim under this statute than one whose contentions were not. Thus it is appropriate to reduce the amount of the claim of TURN to account for this failure to win Commission acquiescence to its positions.

We do not agree with the reduction proposed by GTEC or Pacific. Pacific would have us reduce TURN's claim by two-thirds to reflect that all of TURN's primary recommendations were rejected by the Commission. (Response, at 1.) GTEC would have us reduce TURN's claim by at least one-third for much the same reasons. (Response, at 1-3.) Even where its positions were not adopted, TURN's participation was useful in focusing our decision on potential problems and competing positions. When competently advocated, as TURN's positions were, this participation performs a valuable function and should be encouraged. (Sec. 1801.3(b).) Also, we acknowledge TURN's role in representing and assisting all residential and small business ratepayers on a full spectrum of issues with minimal staffing. Considering the scope of TURN's participation on the issues in this proceeding, the quality of its presentation, and the discretion given to us in Sec. 1802(h), we determine that TURN should be awarded 75% of its claim for compensation.

<u>LIF</u>

The compensation request made by the Latino Issues Forum presents us with a number of difficulties and, as we shall explain, will require a supplemental filing before we can act with finality. Notwithstanding, there are important issues raised which can and should be addressed here.

We begin with two general observations. Several of the distinguished attorneys who have labored in this proceeding under the auspices of the Latino Issues Forum have represented the interests of residential ratepayers in a myriad of Commission proceedings for a longer period than any other intervenor. Commendably, their focus has been on the plight of the economically disadvantaged with a special emphasis on the service conditions faced by California's Hispanic population. In this proceeding that focus has been centered on issues of universal service a goal, yet to be attained, long espoused by this Commission and by California's elected officials. We are now faced with a request for $425,250.91 as compensation for the Forum's contribution made in assisting us in D.94-09-065. As we shall explain, we are in no doubt that the Forum deserves substantial compensation for its vital contributions. Yet the funds from which this compensation is to be paid are born by ratepayers and it is our duty to scrutinize the request from a perspective of the objections raised by Pacific and GTEC but also with a recollection of the views which we expressed in April of 1992 when we considered the budget estimate.

We now turn to the basis for the compensation claim. The universal service contentions raised and pursued by LIF in this proceeding was essentially adopted in D.94-09-065. Neither utility disputes this. In addition, both utilities agree that LIF made a substantial contribution and is thus entitled to intervenor compensation as of right. We are in total accord. Thus under Section 1803 of the Public Utilities Code, reasonable compensation is mandatory and shall be awarded to LIF.

In seeking to determination the dimension of reasonable compensation, we find the issues more difficult than those posed in our consideration of TURN's request. As noted in D.92-04-030, we had occasion to pass on the budget estimate and issues statement which preceded LIF's work in this proceeding. There we declared LIF eligible for compensation but noted concern with the proposed budget. "We are extremely skeptical of the reasonableness of this budget." (43 CPUC2D 648, 655-56.) Of particular concern with the large number of attorneys comprising the staffing and the rates of compensation. The former issue was questioned in light of the limited issues which the Forum proposed to address. (Id., at 656.)

Now, three and one-half years later, we find that Pacific contends that the compensable hours claimed by LIF should be reduced by at least one-third. As justification, Pacific asserts that many of the specific proposals advanced by LIF were not adopted. The utility also notes that the budget submitted by LIF at the time compensation was sought was less than half of the amount now being claimed. In a more specific matter, Pacific seeks to reduce the compensation for LIF witness Hargadon on the basis that his evidence was duplicative of issues addressed by other parties. We note that the utility did not assign specific dollar amounts to any of these contentions.

We find Pacific's insistence that there be a reduction in the award because all of the contention of the claimant were not granted to be unrealistic. Parties in major proceedings such as this have no expectation that the language in the prayers of their brief will be adopted ad hoc verba. LIF clearly persuaded us of the importance of its issue and does not merit a reduction in compensation because each facet of its recommendation in this regard did not find its way into our final order.

More troublesome is the total amount claimed by LIF in relation to the estimate presented to us in D.92-04-030. We are cognizant of the additional time and effort imposed on the parties as the result if irregularities pertaining to D.93-09-076. (D.94-09-065, at 15-16.) This situation should never have arisen and is one for which we bear total responsibility to the ratepayers of California. Clearly, it could not have been contemplated at the time LIF's budget was submitted. Even so, there is a dramatic disparity between the estimated budget and the hours of attorney time actually claimed by the Forum. This is shown on the following table:

Attorney	Estimated hours	Claimed hours
Gnaizda	270	550.8
Menocal	5	14.6
Adame	50	70
Castellano	175	406.9
Savage	250	604.2

In contrast, we note that the hours claimed for experts are less than the submitted estimate.

We do not demand that estimates be realized. Unexpected events, such as those mentioned relating to D.93-06-076, may occur. Notwithstanding, we think it reasonable to expect a close correlation than was obtained in this claim. Presentation of a budget is not a bureaucratic exercise but rather an integral element of the legislation which sought to balance the benefit of intervenor participation against the financial burden on ratepayers. (See, Section 1804(a)(2)(A)(ii) of the Public Utilities Code. We expressed concern over the budgeted numbers at the time of their submission and now face a claim which significantly exceeds that budget.

Unlike GTEC, Pacific was not helpful in pointing to specific areas of expense it deemed questionable. It is only with respect to the efforts of witness Hargadon that we find a specific claim of disallowance predicated on asserted duplication of issues addressed by other parties. We reject a diminution of the claim predicated on this ground for we find that the asserted duplication arose with respect to rates a minor portion of the contribution made by the witness. In the absence of further specificity, we must take up the remaining objections in the context of GTEC's response.

GTEC questions both the number of attorneys for which LIF seeks compensation and the rate of compensation associated with their professional services. Obviously, the determination of the representation personnel is a judgment made initially by the intervening party and, in the absence of clear indication that it has resulted in unnecessary burdens on our processes, it should be respected. While not exhausting all possibilities of unreasonable behavior, we find it useful to focus on the hours spent rather than the number of individuals who spent them. If the total hours are no more for six attorneys than would have been consumed by one the case has not been overlawyered. When we seek to apply this test to the LIF compensation request, we find comparison with TURN's participation and resulting compensation claim to be instructive.

In this proceeding, LIF concentrated on the issue of universal service. Its attorneys were required to be expert in this important area. Compensation is now sought for 1,703.26 hours of legal counsel work at rates varying between $325/hour and $165/hour. (Request, at 17.) This request should be contrasted with the 1,341.25 hours of attorney time claimed by TURN at rates ranging from $215 to $150. (Request, at 21-22; Reply, Attachment.) Further, it is a fact that TURN addressed many more issues than did the Forum thus requiring its lawyers to display expertise in a broader number of areas. Finally, it is the assessment of the ALJ who conducted the proceedings that the quality of the legal work performed by TURN was on a par with that rendered by the Forum. Thus, we could not justify an award of greater compensation to either set of attorneys on the predicate superior qualify of a workproduct.

The computation of a compensation award is governed by Section 1806 of the Public Utilities Code. In discharging our responsibilities, we honor the practice of the legal profession to base that calculation on the hours expended times an hourly rate. As amended by the California Legislature in 1992, we are directed to "take into consideration the market rates paid to persons of comparable training and experience who offer similar services." This calculation is capped at the higher of the rate for comparable services paid to lawyers retained by the utility or the Commission who have comparable training and experience and who offer similar services.[2] Having pondered this formula, we conclude that the Legislature has implicitly acknowledged the public service nature of the professional careers of attorneys who elect to devote their labors to the service of this Commission and to citizens who would otherwise be unrepresented in our deliberations. There is a frank element of admirable sacrifice in such dedication. The services of Robert Gnaizda are illustrative. Gnaizda has been a distinguished member of the California Bar for nearly three decades. Had he elected to deploy his considerable talents on the legal concerns of the affluent, he could now command fees which we do not doubt would exceed the sum of $325 per hour claimed here. But the "similar services" for which he is to be compensated are directed to the labors of others who have selected a career which, while under-compensated in terms of a financial rate, derives considerable satisfaction from advocacy performed in the more noble aspirations of the legal profession.

It is in that context that we conclude that the rate of compensation requested by TURN, and previously approved by this Commission, is the applicable market rate for this proceeding for work performed in 1994. Similarly, for work performed for LIF before 1994, the rate allowed in D.94-11-055 should be our guide.

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2 As noted, it is the customer of the legal profession to approach the issue of compensation in terms of an hourly rate. In seeking a relevant "market" with which to make a comparison, we are frustrated in that the legal professionals employed by this Commission and by the internal staff of the utilities are not paid by the hour. Rather, they receive an annual salary to which many benefits are added in a total compensation arrangement. By contrast, the private practitioner who serves as the traditional model for the hourly rate begins each day of professional existence uncertain as to whether there is a client, to say nothing of the number of potential hours which will be compensated at that rate. In making these observations, we simply note the difficulty of calculation and the inexact outcome to be harvested from such an effort.

for this proceeding. Thus calculated, the allowable compensation for attorneys Gnaizda, Menocal, Schulkind, and Adame is set at $215 per hour for 1994 and $210 per hour prior to 1994. The rate for attorney Savage is $190 prior to 1994 and $215 per hour in 1994. The higher rate for 1994 is fully justified by his added experience in practicing before this Commission and his increased responsibility for this matter. The rate for attorney Castellano is reduced from $165 to $150 per hour, making it equal to the rate claimed by TURN's other attorney, Allen. The declaration of Castellano describing her qualifications does not describe specific training or education in telecommunications, as does that of Costa of TURN. Absent such a showing, we consider her function prior to April 9, 1992 to be that of a legal assistant. We believe that the services of Castellano should be valued more highly after admission to the California Bar than before. As previously discussed, we have accorded Castellano a fee of $150/hour as an attorney. We shall permit reimbursement for her 163.75 hours of services prior to becoming a member of the Bar at $100/hour.

GTEC seeks a disallowance of all of attorney Adame's compensation on the basis that no time sheets were presented substantiating this work. (Response, at 15.) It is true that LIF's request for compensation does not contain an hourly log for all of Adame's hours, but the basis for the charge was explained in the declaration of Gamboa. We accept his declaration that the only hours charged were those where there was direct confirmation in the timesheets of others.

GTEC's contention that Adame's work was duplicative proves too much. In any proceeding where more than one attorney represents a client there will be instances where they must consult and even work on issues together. Similarly, GTEC's challenge to the compensation for attorney Menocal on the basis that it was merely supervisory and did not include participation in hearings is ill-founded. We often find that supervisors are not appearances at our hearings (or in court). However, their contribution to the efficiency of representation is not diminished because they did not personally attend.

GTEC challenges any right to compensation for 29.77 hours of what it terms "legislative advocacy." (Response, at 6.) We have attempted to reconstruct GTEC's time allocation through the logs presented by LIF, but have been unsuccessful. In its Reply (at 9-10), LIF asserts that what GTEC terms legislative advocacy was time relating to the joint legislative hearings. We believe that time devoted to these hearings was properly chargeable for intervenor compensation. The procedural matters discussed and advice obtained were a part of the guidance that went into the eventual decision in this matter. Since LIF has already been found to have made a substantial contribution to D.94-09-065, it may claim compensation for attendance at these hearings and necessary preparation.

Next, we turn to the number of hours that should be compensated. Again, it is useful to compare the claims of LIF and TURN. LIF asks compensation for 1,703.26 attorney hours, from which we must deduct 163.75 of the hours claimed for attorney Castellano. This leaves 1,539.51 hours of attorney time. TURN asks for 1,341.25. This is curious in that TURN addressed many more issues than did LIF. As expressed earlier, we have no reason to believe, nor has there been any contention, that the quality of TURN's work was any less than that of LIF, despite the broader range of subjects and lesser number of claimed hours.

In D.92-04-030 (43 CPUC2d 648), we indicated concern over the cost of the proposed showing of LIF, as proposed in its budget. The request for compensation submitted to us has not allayed this concern. While we do not find unwarranted duplication of participation on issues, which was a concern in the above decision, we do believe that the ratepayers are being asked to pay for more hours than have been justified. Except for the minor amount of work done by Witness Hargadon on the rate issue, LIF devoted its efforts to universal service and did not participate on other substantive matters. This must be contrasted with TURN, who effectively addressed a wide range of issues in fewer billable hours. We have no means of determining what the precise amount of time should have been for each attorney on each matter addressed. Similarly, no justification for the amount of time spent on each subject was provided by LIF. The hours logged by the attorney were merely listed, and we are asked to accept them. This is not acceptable.

GTEC objects to any compensation being accorded to attorney time relating to the issue of attorney sanctions and attorney reprimand. (Response, at 8-12.) GTEC attributes 106.35 LIF attorney hours to the reprimand issue and 18.81 hours to the sanctions issue. (Attachment 1.) It also opposes $66 assigned to sanction expenses and $571.11 to reprimand expenses.

D.94-09-065 at 295 specifically left open two motions:

1. "Motion by Latino Issues Forum and the American G.I. Forum that Public Utilities Commission Investigate Possible Additional Ex Parte Communications By Pacific Bell's Sam Ginn," filed July 29, 1992.

2. "Motion by Latino Issues Forum and the American G.I. Forum that Public Utilities Commission Investigate Assigned Commissioner Shumway's Anti-Hispanic Press Conference in PUC's Courtyard with PUC Staff," filed July 30, 1992.

LIF considers the matter of sanctions and reprimand to be subsumed in the two motions not yet determined by the Commission. It suggests that since these matters have not been concluded the Commission could properly determine that time is not ripe to decide compensation awards relating to them. (Reply, pp. 11-12.) We agree with LIF, and will make a determination of compensation at the time these issues are decided.

In line with this determination we must alert the parties that we have a most difficult time assessing the time allocated by LIF to these issues. Certainly the hours of attorney Schulkind are readily ascertainable. There is more difficulty with regard to LIF's other counsel. Since LIF is seeking compensation for these hours and they are presumably included within the timesheets filed in its request for compensation, it is LIF's duty to make this matter clear. LIF is directed to file a supplemental report indicating the attorney hours and expenses assigned to these issues and correlate this showing to the hours and expenses in its request of November 15, 1994. LIF shall bear the cost of providing this supplemental report, since its necessity is attributable to the nature of the logs presented to us.

SUROC

SUROC is an organization "...whose primary purpose is to educate and advocate on behalf of the aged and elderly before the California Public Utilities Commission." (Declaration, at 1.) It requests compensation of $21,415.54, segregated as follows:

68.5 hours @ $170/hour for representation	$11,645.00
83.5 hours @ $ 75/hour for reading and understanding documents	6,262.50
32 hours @ $ 40/hour for office functions	1,280.00
Expenses	2,228.64

This contrasts with SUROC's budget estimate of $6,315. (D.92-08-034, at 5-6.)

SUROC's request for compensation was filed on March 7, 1994, considerably ahead of the time that D.94-09-065 was issued. Thus it was not able to point to positions which it advocated that were adopted by the Commission. The normal considerations of whether or not SUROC made a substantial contribution to the decision (Sec. 1802(h)) were not argued.

Another anomaly has come to light attributable to SUROC's lack of familiarity with Commission practice. SUROC's certificate of service of the March 7, 1994 request for compensation does not show service on GTEC. This may account for GTEC's failure to mention SUROC in its Response to requests for compensation. Pacific also made no response to SUROC, though according to the certificate of service Pacific was served.

In line with its general purpose, SUROC advocated fair rate treatment for those over 65 years of age. The quality of SUROC's participation was not equal to that of LIF or TURN. This is to be expected, in that SUROC is a new organization and its President, Wolfe, is still learning Commission practice. Given the caveats mentioned above, we believe that SUROC made a substantial contribution to D.94-09-065 in its efforts to focus our attention on the needs of the elderly.

While we are pleased to encourage the participation of the public in our proceedings, we must be careful with allowances for compensation. We must be mindful that all expenses eventually revert to the ratepayers, including those paid for intervenor compensation.

We do not believe that compensation at either the $170 or the $75 per hour level requested by SUROC is warranted. SUROC has an issue that needs to be advocated, but there is a learning curve for effective presentation in the technical field of public utilities regulation and policy that Wolfe is just beginning. As he advances on this curve, his productivity and value will increase. Similarly, we believe that $40 per hour is more than ratepayers should be required to pay for office functions. We find that SUROC is entitled to compensation for 100 hours of work devoted to this proceeding at an average rate of $35 per hour. In addition, we find that the expenses of $2,228.04 are justified and should be awarded. We anticipate that SUROC will continue participation in our proceedings. If so, a higher standard will be expected when considering future intervention compensation.

GTEC, not having been served, could argue that it should not participate in the award to SUROC since it technically had no knowledge of the request. This is so despite GTEC being aware that SUROC had been declared eligible for compensation and had participated in the proceeding. If GTEC takes this position in spite of the small amount of dollars at issue and the unusual nature of this circumstance, we shall deal with whatever they file.

Inter-Utility Matters

Pacific asks that any award to intervenors be equally divided between itself and GTEC. GTEC proposes that any award be allocated on the basis of access lines, and would include all LECs in the state as contributors. GTEC also asks that long distance carriers and other companies who will directly benefit from the advent of intraLATA competition be ordered to share in the costs of any award. (Response to TURN, at 11-12.)

Pacific's justification for a 50/50 split was that we have done it that way before, including in the Phase II decision of this investigation. (D.91-11-070, Conclusion 12.) GTEC admits that it did not protest such a division in the past, but now claims that an equal division would be a far greater burden on its 3.8 million customer lines than on Pacific's 14 million lines. GTEC calls attention to D.93-10-045, wherein apportionment by access line took place.

We agree with GTEC that the costs of intervenor competition should be apportioned between Pacific and GTEC on the basis of access lines. We believe that this method of apportionment more closely follows the effect this decision will have on the individual companies and customers.

GTEC's attempt to involve all LECs, interexchange carriers and competitive access providers as subjects of this proceeding under Sec. 1807 brought a response from AT&T Communications of California (AT&T). AT&T moved to have its reply to this proposal of GTEC accepted. AT&T indicated that the proposal of GTEC is unprecedented and unless its reply is accepted there will be no way to offer argument against the proposal. We agree. Where, as here, a novel proposition is made in the last pleading of a proceeding with no regular procedure for affected parties to respond, there must be allowances made. By its motion AT&T invoked such a situation. Its motion is granted and the reply is accepted.

We are frankly intrigued by the proposal of GTEC. If a utility is really affected by a decision and has been a party to the proceeding, does that make the utility the "subject" of the proceeding or hearing under Sec. 1807? We do not have an answer to this question. GTEC raised the issue at a point where there was little reasonable hope that it could be discussed by the parties. Thus we shall deny GTEC's proposal. If GTEC or any other party wishes to raise the issue again we caution them to make it in a timely manner so that others may have the opportunity to present their views. Similarly, GTEC's proposal to include ". . . other companies who will directly benefit from the advent of intraLATA competition. . ." should also be deferred to another time, so that we can be apprised of whether this refers to "utilities," as mentioned in Sec. 1807, and if not, to whom GTEC is referring.

GTEC asks that the compensation claimed by LIF for the settlement reached with Pacific be apportioned solely to Pacific. GTEC claims that the issue was solely with Pacific and that all negotiations were with Pacific. We agree.

Pacific asks that it be authorized to recover its share of intervenor compensation awards in rates, pursuant to Sec. 1807. This proposal is opposed by TURN, which argues that the compensation liability is considered to be fully recovered in existing rates for utilities under the New Regulatory Framework

(NRF). This matter is currently under review in a petition for rehearing of D.94-09-022, and a petition for modification of D.94-12-025. A determination on rehearing will be applicable to this proceeding, so we shall defer ruling without prejudice to Pacific filing for relief at the appropriate time.

Findings of Fact

1. The Commission has discretion to award up to the full amount of TURN's claim for compensation, even though TURN's positions were not adopted in full.

2. TURN participated on multiple issues in this proceeding.

3. The hourly rate of compensation requested for TURN's attorneys does not exceed that granted to TURN in D.94-09-022. We find this to be the market rate for such services at the Public Utilities Commission and that such rate is reasonable.

4. The market rate at the Public Utilities Commission for attorneys Gnaizda, Menocal, Schulkind, and Adame is $215 per hour for 1994, and $210 for prior years. The market rate for attorney Savage is $215 per hour for 1994 and $190 per hour for prior years. The market rate for attorney Castellano is $150 per hour. These rates are reasonable.

5. Castellano performed 163.75 hours of services prior to admission to The State Bar of California. This will be regarded as legal assistant work. The market rate for such service is $100 per hour. This rate is reasonable.

6. There has been no proof that the specific work of attorneys Adame or Menocal was duplicative.

7. Preparation for and attendance at the joint legislative hearings pertaining to this proceeding are properly chargeable to intervenor compensation.

8. LIF concentrated on the issue of universal service in contrast to TURN, who was active on many issues.

9. Because of SUROC's unfamiliarity with the procedures and details of telephone regulation it was not able to offer

representation as efficient or effective as that of other intervenors.

10. SUROC should be compensated for 100 hours at a rate of $35 per hour and expenses of $2,228.64.

11. There was no opportunity to consider arguments on GTEC's proposal that all LECs, interexchange carriers and competitive access providers are subjects of this proceeding.

Conclusions of Law

1. TURN has made a substantial contribution to the decision-making process in this proceeding and is entitled to intervenor compensation.

2. The quality of TURN's participation was high.

3. The hourly rate of compensation requested for Costa is the market rate for services of a person with her qualifications, and is reasonable.

4. Since its positions were not substantially adopted in D.94-09-065, it is appropriate to reduce the claim for compensation to be awarded to TURN.

5. TURN should be awarded 75% of its claim in this proceeding.

6. We conclude that TURN is entitled to $391,757.25, which is 75% of its claim for compensation.

7. LIF made a substantial contribution to D.94-09-065 in the area of universal service. It is entitled to intervenor compensation.

8. The quality of LIF's participation was high.

9. Merely because the Commission did not adopt the totality of LIF's position on universal service is not sufficient cause to reduce LIF's claim for compensation. We look to the broad issue, and in that context, the Commission adopted LIF's position on universal service.

10. Witness Hargadon's effort in the area of rates was not inappropriately duplicative of that of other witnesses and is eligible for compensation.

11. The number of a party's attorneys eligible for compensation is not an issue if the total hours billed are appropriate and the work is satisfactory.

12. Attorney Adame's number of hours were adequately explained in the declaration of Gamboa, despite the absence of a log.

13. We do not find it reasonable, without a showing of unusual circumstances, to recognize more attorney hours for a one-issue party than for a party who participated effectively on many issues.

14. We withhold our determination of the adjusted attorney hours claimed by LIF as eligible for intervenor compensation.

15. LIF's attorney rate of compensation shall be at the market rate specified in Finding 4. Hours and expenses devoted to the motions deferred in D.94-09-065 are not included in this entitlement.

16. LIF is entitled to legal assistant time of Castellano at $100 per hour. The number of hours to which this will apply will be determined later.

17. LIF shall file a supplemental report of the hours devoted by its attorneys and the matters they addressed, keyed to the existing Request for Intervenor Compensation. It should be submitted at LIF's expense. This report shall clearly show the year the service was rendered.

18. The issue of sanctions and reprimand are a portion of the two motions that were not disposed of by D.94-09-065. As such, there should be no ruling on compensation for hours and expenses devoted to these issues.

19. The Commission is unable to accurately determine the hours and expenses devoted to issues in the undecided motions.

20. LIF, as the party claiming relief, has the duty to make its claim clear.

21. A supplemental report showing hours and expenses devoted to the motions not yet decided, including hours and expenses devoted to sanctions and reprimands, keyed to the existing Request for Intervenor Compensation, should be submitted at LIF's expense. This report shall clearly show the year the service was rendered.

22. Until such time as the supplemental report is received and analyzed, the Commission cannot determine the appropriate compensation to be accorded LIF for matters decided in D.94-09-065.

23. LIF shall file a supplemental report of the hours and expenses devoted to those issues not determined in this proceeding, as stated in Conclusion 17. This report should cover both attorney and legal assistant hours and expenses. LIF shall not be accorded compensation for time or expenses associated with this supplemental report.

24. LIF is entitled to compensation for the hours and rates of compensation requested for its experts.

25. SUROC made a substantial contribution to D.94-09-065 and deserves intervenor compensation.

26. SUROC is entitled to compensation of $5,728.04.

27. The award to intervenors should be apportioned between Pacific and GTEC on the basis of number of access lines.

28. Intervenor compensation costs and expenses, as adjusted above, connected with LIF's settlement negotiations with Pacific should be apportioned to solely to Pacific.

O R D E R

IT IS ORDERED that:

1. Toward Utility Rate Normalization is awarded compensation in the amount of $391,757.25.

2. Senior Utility Ratepayers of California is awarded compensation in the amount of $5,728.04.

3. Latino Issues Forum and American G.I. Forum (LIF) shall file a supplemental report in accordance with the findings and conclusions of this decision. At that time, we can determine the dollar amount of the award due to LIF. Because the nature of LIF's showing requires a supplemental report, any request for interest because of delay must be tolled from the date of this decision to the date the supplemental report is filed.

4. GTE California's proposal to have all local exchange carriers, interexchange carriers, and competitive access providers be declared subjects of this proceeding and share in the award to intervenors is denied without prejudice to such proposal being made in another proceeding where there is an opportunity for rebuttal.

5. The amounts awarded shall be paid by Pacific Bell and GTE California in proportion to their respective number of access lines, as noted in Decision 94-09-065, mimeo. at 163, footnote 38.

6. LIF is entitled to reimbursement for its settlement efforts with Pacific at the rates specified in Findings 4 and 5. This award shall be born solely by Pacific Bell. Hours attributable to this award shall be separately stated in the report noted in Ordering Paragraph 3 and shall be keyed to the Request for Compensation filed previously.

7. Pacific Bell's request for an intervenor compensation allowance in rates is deferred to a resolution of rehearing of Decision 94-09-022.

This order is effective today.

Dated August 11, 1995, at San Francisco, California.

DANIEL Wm. FESSLER
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
Commissioners

I abstain.

/s/ P. GREGORY CONLON
Commissioner

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

Wesley Franklin
Acting Executive Director