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Decision 98-04-025 April 9, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint Application of Pacific Telesis Group ("Telesis") and SBC Communications Inc. ("SBC") for SBC to Control Pacific Bell (U 1001 C), Which Will Occur Indirectly as a Result of Telesis' Merger With a Wholly Owned Subsidiary of SBC, SBC Communications (NV) Inc.

ORIGINAL

Application 96-04-038
(Filed April 26, 1996)

OPINION AWARDING INTERVENOR COMPENSATION

This decision grants awards of compensation in the sum total of \$631,420.45 to The Greenlining Institute/Latino Issues Forum (Greenlining/LIF), parties represented by Public Advocates, Inc. (Public Advocates),¹ The Utility Reform Network (TURN), and Utility Consumers' Action Network (UCAN) for their contributions to Decision (D.) 97-03-067. It also awards TURN \$10,550.50 for its contribution to D.97-11-035, our order on applications for rehearing of D.97-03-067.

1. Background

In D.97-03-067, we approved the merger of Pacific Telesis Group (Telesis) and SBC Communications, Inc. (SBC) (collectively referred to as Applicants). Under the terms of the application, Pacific Bell (Pacific) would change from a wholly-owned subsidiary of Telesis to a second-tier subsidiary of the resulting merged company, owned approximately 66% by SBC shareholders and 34% by Telesis shareholders. Five

¹ The parties represented by Public Advocates are the Southern Christian Leadership Conference, National Council of La Raza, Korean Youth and Community Center, Association of Mexican-American Educators, California Association for Asian-Pacific Bilingual Education, California Association for Bilingual Education, Korean Community Center of the East Bay, Filipinos for Affirmative Action, and Filipino Civil Rights Advocates.

parties, including TURN, protested this application. Testimony was served by intervenors including Greenlining, Public Advocates, TURN, and UCAN.

Approval of mergers affecting utilities is governed by Public Utilities (PU) Code § 854. D.97-03-067 addressed a number of concerns expressed by those protesting the application, including standards applicable to approval of the merger. Specifically, Applicants argued that the language of § 854(b), which otherwise requires analysis of a merger's benefit to ratepayers, equitable allocation of such benefits to ratepayers, and lack of adverse effect on competition, rendered it inapplicable to the case at hand.

We determined that § 854(b) was applicable. Although the statute speaks of "utilities [as opposed to entities] that are parties to the proposed transaction," we found that Pacific was, for practical purposes, a party to the transaction. Applying the requirements of the statute, we found that 50% of Applicants' cost savings should be allocated to ratepayers over five years. Cost savings were calculated at \$248 million, based upon figures supplied by Applicants, and including revenues associated with Category I and II services, which are not fully competitive, and savings on capital expenditures.

We also determined, in agreement with an advisory opinion from the California Attorney General, that the proposed merger would not adversely affect competition, as it was not reasonably probable that SBC would have entered the California local exchange markets absent the merger. While intervenors advanced various arguments to illustrate the danger of reduced competition, we viewed many of these concerns as either unfounded or non-merger related. Finally, allegations regarding anti-competitive actions by SBC in its current territories were found to be more appropriately addressed in another forum. We declined to adopt mitigation measures to curb those anti-competitive actions as proposed by intervenors.

Section 854(c) requires an analysis of the effects of a proposed merger, identifying numerous criteria for use in the determination of whether that merger should be approved. Factors for consideration include financial condition of the resulting utility, quality of service to ratepayers, quality of utility management and impact on employees, impacts on shareholders and local economies.

We found that, on balance, Applicants met the requirements imposed by 854(c). In response to concerns raised by several parties and intervenors regarding Pacific's service quality, we noted that Pacific will be expected to maintain all standards and policies following the merger, just as it would if the merger did not take place. Economic benefits to result from the proposed merger include commitments by Applicants to create 1,000 new jobs in California, as well as a Community Partnership Commitment under which Applicants promise to fund \$50 million in consumer education efforts in addition to \$32 million for other activities, including promotion of access to underserved communities, over a period of ten years. The ratepayer portion of shareable economic benefits to be credited through rate reductions was adjusted in accordance with amounts for distribution under the Community Partnership Commitment.

In D.97-11-035, we considered the Applications for Rehearing of D.97-03-067. Although we did not grant rehearing, we did modify D.97-03-067. Specifically, we modified the terms and conditions of the Community Technology Fund of the Community Partnership Commitment to exclude Pacific Bell or any other carriers from involvement in decisions regarding the selection of members of the board for the Community Technology Fund and the award and use of Community Technology Fund grants.

Greenlining/LIF, Public Advocates, TURN, and UCAN now request compensation for their participation in this proceeding, seeking a combined total of over \$965,000. Greenlining/LIF and Public Advocates seek compensation primarily for their involvement in formulating the Community Partnership Commitment. UCAN and TURN participated on a broader array of issues presented by the proposed merger, addressing customer concerns about the results of the proposed merger.

2. Requirements for Awards of Compensation

Intervenors who seek compensation for their contributions in Commission proceedings must file requests for compensation pursuant to PU Code §§ 1801-1812. Section 1804(a) requires an intervenor to file a notice of intent (NOI) to claim

compensation within 30 days of the prehearing conference or by a date established by the Commission. The NOI must present information regarding the nature and extent of compensation and may request a finding of eligibility.

Other code sections address requests for compensation filed after a Commission decision is issued. Section 1804(c) requires an Intervenor requesting compensation to provide "a detailed description of services and expenditures and a description of the customer's substantial contribution to the hearing or proceeding." Section 1802(h) states that "substantial contribution" means that,

"in the judgment of the commission, the customer's presentation has substantially assisted the Commission in the making of its order or decision because the order or decision has adopted in whole or in part on one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer. Where the customer's participation has resulted in a substantial contribution, even if the decision adopts that customer's contention or recommendations only in part, the commission may award the customer compensation for all reasonable advocate's fees, reasonable expert fees, and other reasonable costs incurred by the customer in preparing or presenting that contention or recommendation."

Section 1804(e) requires the Commission to issue a decision which determines whether or not the customer has made a substantial contribution and the amount of compensation to be paid. The level of compensation must take into account the market rate paid to individuals with comparable training and experience who offer similar services, consistent with § 1806.

3. TURN

3.1. NOI

TURN timely filed a NOI and was found eligible by ruling dated August 16, 1996. TURN's showing of significant financial hardship was based on an Administrative Law Judge's ruling dated February 16, 1996, creating a rebuttable presumption of significant financial hardship for proceedings commenced within a year of that date.

TURN's request for compensation for its contribution to D.97-03-067 was timely filed on May 22, 1997. TURN's request for compensation for its contribution to D.97-11-035, our decision on the applications for rehearing of D.97-03-067, was timely filed on January 8, 1998.

3.2. Contributions to Decision

TURN submits that it has made a substantial contribution to D.97-03-067 in three areas: through its arguments regarding applicability of § 854(b) to the proposed transaction, insufficiency of competitive forces to pass on benefits of the merger from Applicants to consumers, and calculation of benefits to consumers under § 854(b). TURN contends that the Commission adopted a calculation of benefits based upon that proposed by TURN's witness Terry Murray. According to TURN, this approach included identification of rate components to be included in the merger benefits forecast as well as identification and justification of appropriate implementation costs. With respect to D.97-11-035, TURN claims its application for rehearing sought three principal modifications to D.97-03-067 to which the Commission made responsive modifications in Ordering Paragraph 1(b).

Applicants argue that TURN did not make a substantial contribution. They observe that TURN's contributions with regard to the applicability of Section 854(b) and the effects of the merger on competition were addressed by Public Advocates and ORA. Applicants argue that the Commission did not adopt TURN's recommendations regarding the calculation of benefits.

We find that TURN has made a substantial contribution to the proceeding. The adopted method of quantifying benefits resulting from the merger was in fact a hybrid of proposals put forth by Applicants and TURN. TURN's participation enabled a broader inquiry into the method of calculation presented by Applicants, including allocation of regulated and unregulated services, the appropriate way to treat "best practices" savings and implementation costs. While TURN's opening brief was of limited use, its participation in the hearing room and reply brief were influential in the Commission's consideration of the calculation of benefits and the applicability of

Section 854(b). It was directly as a result of TURN's arguments in its application for rehearing that we made the modifications contained in Ordering Paragraph 1(b) of D.97-11-035. These modifications include restricting utility participation in the selection of members of, or to be represented in, the Community Technology Fund, removing certain restrictions on the recipient's spending under the Community Technology Fund, and opening disbursement committee membership to all community- and ratepayer-interest representative groups. We find that TURN made a significant contribution to D.97-03-067 and D.97-11-035.

3.3. Reasonableness of Requested Compensation

3.3.1. Hourly Rates

TURN requests compensation in the amount of \$188,504.24 for D.97-03-067 as follows:

Attorney Fees

Thomas Long					
111.5 hrs	x	\$240	=		\$ 26,760.00
Thomas Corr					
452.0 hrs	x	\$240	=		\$108,480.00
		Subtotal	=		\$135,240.00

Experts/Consultants

Terry Murray					
107.25 hrs	x	\$250	=		\$ 26,812.50
Scott Cratty					
111.55 hrs	x	\$150	=		\$ 16,832.50
		Subtotal	=		\$ 43,545.00

Other Reasonable Costs

Economists, Inc.	=	\$ 3,930.99
Photocopying Expense	=	\$ 3,688.40
Postage	=	\$ 855.74
Fax/Telephone	=	\$ 528.61
Parking/BART	=	\$ 246.75
Lexis	=	\$ 444.50
FedEx	=	\$ 24.25
	Subtotal	= \$ 9,719.24

TOTAL REQUEST = **\$188,504.24**

TURN requests compensation in the amount of \$10,863 for its contribution to D.97-11-035 as follows:

Attorney Fees				
Thomas Long	39.00 hrs	x	\$240	= \$ 9,750
Other Reasonable Costs				
Photocopying Expense			=	\$ 722
Postage			=	\$ 196
Computerized Legal Research			=	\$ 195
	Subtotal		=	\$ 1,113
TOTAL REQUEST				= \$10,863

TURN requests \$240 per hour for the work of attorney Thomas Long. This rate has previously been approved in D.97-10-049. We will apply it here.

For the work of attorney Thomas Corr, TURN also requests \$240 per hour. Mr. Corr, a contract attorney for TURN, has appeared before this Commission in the past. A 1995 hourly rate of \$225 was approved for Mr. Corr in D.96-05-052. TURN thus seeks a \$15 raise, or 6.6%. Mr. Corr's declaration states that he received his law degree from the University of San Francisco School of Law in 1978, and has served in various staff counsel positions with the CPUC from 1980 to 1988. Thereafter, Mr. Corr was a Principal with Independent Power Corporation in Oakland and has been a sole practitioner since 1993. Mr. Corr's experience and qualifications support the requested rate increase.

TURN submits that the requested hours for outside experts and consultants are "actual 'recorded or billed costs.'" TURN also contends that these rates reflect the actual market for such consultants.

TURN requests \$250 per hour for expert Terry Murray. Ms. Murray has previously provided testimony for TURN, and was awarded a rate of \$135 per hour in D.94-10-026. TURN suggests that the lower rate, authorized for 1993, reflects a lower demand for expertise on energy utilities than telecommunications. TURN attaches to its Request a declaration from Ms. Murray, noting a general billing increase resulting, in part, from the passage of the Telecommunications Act of 1996. Ms. Murray lists her

relevant experience, including five years as an economic consultant in regulatory and antitrust matters. Ms. Murray also lists experience at this Commission, acting as Director of the Division of Ratepayer Advocates in addition to experience with the Policy and Planning Division and as Commissioner's Advisor.

Ms. Murray's qualifications demonstrate training and experience of a high level. Her career as regulatory economist spans 14 years, most of which were spent in positions requiring a high level of policy and technical expertise. She has testified before many regulatory utility commissions. The requested rate for Ms. Murray exceeds any that the Commission has approved for almost all expert witnesses. As noted previously, § 1806 directs that "[t]he computation of compensation awarded. . . shall take into consideration the market rates paid to persons of comparable training and experience who offer similar services." The Commission has interpreted "similar services" to indicate other persons practicing before this Commission. A rate of \$250 per hour -- the highest we have approved for an expert witness -- has previously been approved for Mr. Hargadon, as noted above. Like Mr. Hargadon, Ms. Murray has a Masters in Economics, has testified numerous times before this Commission, and has taught courses on telecommunications at the college level. While Ms. Murray appears to have focussed on regulatory economics throughout her career, Mr. Hargadon's declaration leads us to conclude he has developed his regulatory expertise over the past 7 years, with greater attention and expertise developed in telecommunications delivery systems, and interactive and business loop opportunities in the prior 20 years.

Ms. Murray and Mr. Hargadon provided similar services to their clients in this proceeding. They have comparable training and, as relate to the issues considered in this proceeding, comparable experience.

TURN also argues that the \$250 per hour rate for Ms. Murray is reasonable because it is at or below the rates charged applicants and other intervenors by their witnesses in this proceeding. We agree. A rate of \$250 per hour for Ms. Murray's services as a regulatory economist in the telecommunications field is therefore reasonable.

TURN requests an hourly rate of \$150 for expert Scott Cratty.

Ms. Murray's declaration asserts that this rate is the market rate charged by Mr. Cratty. Ms. Murray notes that Mr. Cratty has provided expert witness services to UCAN in a proceeding concerning ISDN costs and rates, charging only \$125 in that proceeding to reflect a lack of prior experience as a witness rather than analyst. Ms. Murray contends that Mr. Cratty's requested rate of \$150 is fully justified by 11 years' experience in telecommunications. TURN has not provided adequate justification for the higher rate, failing to elaborate on Mr. Cratty's qualifications. A rate of \$125 per hour is therefore reasonable.

TURN seeks compensation for five hours spent by attorney Thomas Corr in drafting its compensation request for D.97-03-067, as well as two hours by attorney Thomas Long. It also request 2.5 hours of Long's time for the preparation of its request for compensation for D.97-11-035. In keeping with prior Commission practice, we will compensate these hours at 50% of the standard rate, reflecting the largely administrative nature of the task.

3.3.2. Hours Claimed

TURN estimates that 70% of its time in this proceeding was spent on three areas: preliminary issue analysis (including discovery,) applicability of § 854(b), and benefits calculation. TURN reports that another 25% of its time went toward benefits allocation, competition, and § 854(c) issues, with the remaining 5% spent on procedural issues. This allocation adequately reflects TURN's contribution, and appears to be a reasonable expenditure of time in this proceeding, especially in light of the breadth of issues on which TURN participated. While TURN's contributions were not equal on all these points, we do not find that TURN has sought compensation for issues on which it failed to contribute. We will, however, impose a 10% reduction in hours claimed for duplication because many of TURN's points were adequately represented and argued by other parties.

3.3.3. Other Expenses

TURN seeks a total of \$9,719.24 for D.97-03-067 and \$1,113 for D.97-11-035 in miscellaneous expenses, mostly for photocopying, postage and transportation. While the majority of these costs appear straightforward, TURN seeks \$3,930.99 for payment to Economists, Inc., who "undertook a scoping analysis for TURN on the issues involving competition." This additional expense for consulting work is not adequately explained or justified. We therefore disallow the expense.

3.3.4. Total Compensation Award

We herein award TURN \$163,344.88 for its contributions to D.97-03-067 and \$10,550.50 for its contribution to D.97-11-035.

4. UCAN

4.1. NOI

UCAN also timely filed its NOI and was found eligible by ruling dated August 16, 1996. UCAN's showing of significant financial hardship was based upon a May 20, 1996 ruling on that issue. UCAN's request for compensation was timely filed on May 30, 1997.

4.2. Contributions to Decision

UCAN argues that it has made a substantial contribution to a number of facets of this proceeding. UCAN notes that it joined ORA and TURN in asserting the applicability of § 854(b) to the proposed merger, as well as disputing Applicants' contention that competition alone would carry the benefits of the merger through to ratepayers. UCAN addressed technology deployment, infrastructure investment by Applicants, and customer service levels. UCAN also observes that it was initially involved in developing the instrument ultimately titled the Community Partnership Commitment, proposing a Community Technology Fund for the benefit of economically disadvantaged consumers. UCAN notes that some of its critiques of the final Community Partnership Commitment were reflected in the decision.

Applicants oppose UCAN's request for compensation, arguing that UCAN's positions were not adopted or were duplicated by other parties. They argue

that UCAN cannot claim credit for the Community Partnership Commitment, especially since UCAN later sought to discredit the proposal.

While many of UCAN's proposals were ultimately rejected, UCAN's participation was helpful in examining Applicants' positions. UCAN's contentions regarding possible deterioration of Pacific Bell's customer service following the merger were important in identifying areas of concern and potential impacts of the resulting merged company. In addition, UCAN helped develop a prototype for the Community Partnership Commitment that was adopted. We agreed with UCAN that the Community Partnership Agreement should not be void by its own terms, as allowed by its signatories, if shareable economic benefits under § 854 exceed those economic benefits accruing to ratepayers through the Community Partnership Commitment. Subsequently, upon rehearing, we modified the Community Partnership Commitment in ways proposed by UCAN, for example, by removing the clause that would condition Community Partnership Commitment funding on the recipient refraining from certain advocacy activities. Although UCAN's extensive participation in the proceeding resulted in adoption of relatively few of its unique proposals, UCAN nonetheless made a substantial contribution.

4.3. Reasonableness of Requested Compensation

4.3.1. Hourly Rates

UCAN requests compensation in the amount of \$162,398.69 as follows:

Attorney Fees

Michael Shames					
280.7 hrs	x	\$180	=	\$	50,526
Barry Fraser					
185.9 hrs	x	\$120	=	\$	22,308
Charles Carbone					
713.55 hrs	x	\$80	=	\$	57,084
Robert Fellmeth					
19.8 hrs	x	\$250	=	\$	4,950
Subtotal			=		\$134,868

Expert Fees

Francois Bar

Consulting Fees @ \$200 = \$ 15,883.50

Expenses \$ 129.26

Subtotal = \$ 16,012.76

Miscellaneous Costs

Travel = \$ 4,671.56

Photocopying = \$ 3,854.65

Postage = \$ 2,177.42

Telephone/Fax = \$ 190.30

Delivery = \$ 624.00

Subtotal = \$ 11,517.93

TOTAL REQUEST = \$162,398.69

UCAN requests an hourly rate of \$180 for the work of attorney Michael Shames in 1996 and 1997. UCAN notes that this rate has already been approved for Mr. Shames' work in 1996 in D.96-09-065. This rate is reasonable and will be applied here.

UCAN requests an hourly rate of \$120 for attorney Barry Fraser. We have not had a prior opportunity to approve a rate for Mr. Fraser, a 1995 graduate of the University of San Diego School of Law. UCAN points out that \$120/hour is the same rate awarded to its attorney Lisa Briggs, also a two-year associate with comparable experience. We agree that \$120 per hour is a reasonable rate for an attorney of Mr. Fraser's experience.

UCAN seeks \$80 per hour for the work of attorney Charles Carbone, for whom we have not previously established an appropriate hourly rate. Mr. Carbone is a 1996 graduate of State University of New York, Buffalo School of Law, and lists various public interest internships during law school as well as subsequent experience with UCAN. We find a rate of \$80 per hour to be reasonable for Mr. Carbone.

UCAN seeks an award of \$250 per hour for attorney Robert Fellmeth, whose declaration asserts that he holds the Price Chair in Public Interest Law on the faculty of the University of San Diego School of Law, where he has served since 1978.

Professor Fellmeth notes that he specializes in regulatory, consumer and antitrust law. Prof. Fellmeth adds that he has testified before the Commission on prior occasions. In D.91-11-070, we awarded Prof. Fellmeth a rate of \$150 per hour for his expert work in that proceeding. Professor Fellmeth has experience which is comparable to the most highly paid intervenor attorneys at the Commission. On that basis, we grant an increase for Mr. Fellmeth to \$250 per hour.

Finally, UCAN requests a rate of \$200 per hour for Professor Francois Bar, for whom we have not previously established an hourly rate. Prof. Bar is an assistant professor with the Department of Communication at Stanford University. It appears he has never testified before a regulatory body. He holds a doctorate in city and regional planning from the University of California at Berkeley, and has participated in such projects as the Berkeley Roundtable on the International Economy and the Stanford Computer Industry Project. Considering the rates we have herein approved for other expert witnesses, a rate of \$200 per hour is reasonable for Mr. Bar.

4.3.2. Hours Claimed

UCAN seeks compensation both for its work in litigation, as well as its settlement activities, asserting that its ideas were appropriated for the Community Partnership Commitment. UCAN addressed five issues: applicability of § 854, Community Partnership Commitment, customer service, utility infrastructure, and competition. UCAN notes that it has not included hours spent by attorneys Michael Shames and Charles Carbone on issues which were not resolved in UCAN's favor or which did not recognize UCAN's contributions.

UCAN's voluntary reduction in hours claimed on issues in which UCAN did not prevail is appropriate. UCAN's efforts with regard to the early development of the Community Partnership Commitment should be compensated even though negotiations involving UCAN were unsuccessful, and partly in recognition that D.97-11-035 modified D.97-04-067 in ways which recognized UCAN's contributions. Due to duplication, but in light of UCAN's voluntary reductions, UCAN's hours should

be reduced by 5%. We find UCAN's hours claimed to be otherwise reasonable considering the scope of its participation.²

4.3.3. Other Expenses

UCAN seeks \$11,517.93 in expenses. Because UCAN is located in San Diego, more than half of this amount is for recovery of air fare, related ground transportation, and hotels. The amounts are reasonable and we will approve them.

4.3.4. Total Compensation Award

We herein award UCAN \$154,854.65 for its contributions to D.97-03-067.

5. Greenlining

5.1. NOI to Claim Compensation

Greenlining/LIF timely filed its NOI after the first prehearing conference and was found to be eligible for compensation in this proceeding by a ruling dated August 16, 1996. The same ruling found that Greenlining/LIF had not submitted information demonstrating financial hardship, intending instead to provide updated data through June 30, 1996. As such, the ruling found that Greenlining/LIF could choose to amend its motion no later than August 28, 1996, or in the alternative, include a showing of significant financial hardship with its request for compensation. Greenlining/LIF chose to do the latter, and includes data with its Request designed to make such a showing.

Section 1802(g) defines "significant financial hardship" to mean:

"either that the customer cannot afford, without undue hardship, to pay the costs of effective participation, including advocate's fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, the economic interest of the individual members of that group or organization is small in

² Since UCAN does not provide the total number of hours Mr. Bar billed to UCAN, we reduce the total dollars requested for Bar by 10%, instead of reducing the number of hours.

comparison to the costs of effective participation in the proceeding."

Greenlining/LIF asserts that it bases its claim of significant financial hardship on its status as a non-profit organization, as well its inability to otherwise compensate its advocates for their time. In support of these claims, Greenlining submits financial information illustrating that for the period 12/1/95 - 11/30/96, its adjusted income exceeded expenses by only \$10,995. For Latino Issues Forum, income exceeded expenses by \$154,384 for the same period.

Greenlining/LIF have adequately demonstrated financial hardship under § 1802(g). The potential economic interest of Greenlining/LIF's members in this proceeding are insignificant compared to the costs of participation in this proceeding. Accordingly, we find that Greenlining and LIF have each made a sufficient showing of significant financial hardship within the meaning of the statute.

Greenlining/LIF filed its request for compensation on May 29, within the 60 days following issuance of the decision, in accordance with § 1804(c).

5.2. Contributions to Decision

Greenlining/LIF argues that it has made a substantial contribution to D.97-03-067 by virtue of its involvement in the formation of the Community Partnership Commitment. Greenlining/LIF claims that it originated and negotiated the concept on behalf of its coalition members. Greenlining/LIF describes its extensive activities related to the agreement, including negotiation with Telesis and SBC, solicitation of support from community groups, and presentation of expert testimony in support of the Community Partnership Commitment.

D.97-03-067 adopted the Community Partnership Commitment and recognized Greenlining/LIF's contributions in its development. On that basis, we find that Greenlining/LIF made a substantial contribution to D.97-03-067 on this narrow issue.

5.3. Reasonableness of Requested Compensation**5.3.1. Hourly Rates**

The Greenlining Institute and Latino Issues Forum request compensation in the amount of \$273,960 as follows:

Greenlining**Attorney Fees**

Robert Gnaizda				
440.8 hrs	x	\$350	=	\$154,280
April Veneracion				
103.6 hrs	x	\$75	=	\$ 7,770
Mishka Migacz				
25.95 hrs	x	\$110	=	\$ 2,854
Subtotal			=	\$ 97,929

Expert Fees

John C. Gamboa				
132.1 hrs	x	\$250	=	\$ 33,025

Subtotal Greenlining = \$197,929

LIF**Attorney Fees**

Susan E. Brown				
206.25 hrs	x	\$250	=	\$ 51,562

Expert Fees

Guillermo Rodriguez, Jr.				
128.4 hrs	x	\$150	=	\$ 19,260

Subtotal LIF = \$ 70,822

Additional Costs

Postage, Photocopies, deliveries	=	\$ 5,209
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TOTAL REQUEST = \$273,960

Greenlining

Greenlining requests an hourly rates of \$350 for the work of lead attorney Robert Gnaizda during a period covering April 1996 to May 1997. This represents a 35%

increase over the hourly rate approved for Mr. Gnaizda for work through June 30, 1996, in D.96-08-040. In his declaration, Mr. Gnaizda states that he has been a public-interest trial attorney since 1966; that he has practiced before this Commission since 1970; that in 1996 he helped found and became Statewide Director of Litigation for California Rural Legal Assistance; that he was, in 1971, a co-founder of Public Advocates. Mr. Gnaizda notes that he has been awarded \$360 per hour for practice before the California Department of Insurance.

Section 1806 directs that "[t]he computation of compensation awarded. . . shall take into consideration the market rates paid to persons of comparable training and experience who offer similar services." Mr. Gnaizda submits that the hourly rate he has requested is "far below the \$400 plus hourly rate for my peer lawyers." We have previously noted that the nature of practice before this Commission is not strictly parallel to that of attorneys in private practice:

[T]he 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. . . . [T]he 'similar services' for which [such attorneys are] to be compensated are directed to the labors of others who have selected a career which, while compensated in terms of a financial rate, derives considerable satisfaction from advocacy performed in the more noble aspirations of the legal profession. (D.95-08-051, at 9.)

In requesting a substantial increase to Mr. Gnaizda's hourly rate, Greenlining provides no documentation to support its claims that Mr. Gnaizda's proposed rate is reasonable or within the range of attorney's with comparable experience. An award by the Department of Insurance is not, by itself, a demonstration of the reasonableness of Greenlining's request under Section 1806, which applies only to this Commission and within which the Commission's intervenor compensation programs must operate. Greenlining's assertion that the utilities pay their attorneys considerably more than we have awarded Mr. Gnaizda is not by itself a demonstration that such higher fees should be paid to Mr. Gnaizda. Accordingly, we consider Mr. Gnaizda's requested hourly rate

with reference to other attorneys practicing before this Commission whose rates have been set on the basis of market studies.

Mr. Gnaizda's experience and qualifications are considerable, placing him among the top tier of attorneys practicing before this Commission. An hourly rate of \$260 is reasonable for an attorney of Mr. Gnaizda's experience. This rate is the highest approved by the Commission in its intervenor compensation program for any attorney at this time. While it may not represent the highest rate in the range of comparable attorneys, it is certainly within the range.

Greenlining requests an hourly rate of \$110 for the work of attorney Mishka Migacz. Mr. Gnaizda's Declaration asserts that Mishka Migacz is a 1995 graduate of Hastings College of the Law. We have previously decided that \$100 per hour is a reasonable rate for law school graduates prior to admittance to the bar. A rate of \$110 is therefore reasonable for an attorney with one year of experience. We will apply that rate here.

Greenlining requests an hourly rate of \$75 for April Veneracion, included in the table of attorney fees in Greenlining's compensation request but described in the Declaration of John C. Gamboa as public-policy professional staff member. We have not previously established an hourly rate for Ms. Veneracion, a 1996 graduate of the University of California, Riverside. Mr. Gamboa notes that Ms. Veneracion was responsible for securing public input, education, outreach, and participation. We have previously awarded an hourly rate of \$75 for similar services performed by staff at Greenlining. (D.96-08-040.) This rate is commensurate with the expertise required for this position and will be applied here.

Greenlining requests \$250 per hour for the work of expert John C. Gamboa, listed as Executive Director of the Greenlining Institute. Mr. Gamboa's Declaration states that he has seventeen years' experience as a managing director of low-income consumer non-profit community organizations in addition to twelve years with Pacific Bell and AT&T, specializing in minority marketing and outreach.

Mr. Gamboa's requested rate represents a significant increase over the \$125 hourly rate approved for Mr. Gamboa in D.96-08-040 for work performed in 1994-1996.

In that decision, we found that Mr. Gamboa's activities had consisted primarily of meetings within Greenlining, with other parties and ex parte with members of the Commission and attendance at workshops. These hours were found similar to those of policy level staff members of other intervenors.

Greenlining here requests compensation for Mr. Gamboa's time as an expert. However, the vast majority of hours listed on Mr. Gamboa's time records indicate discussions and meetings with other parties and with staff at Greenlining and LIF, in addition to public outreach and interaction with signatories to the Community Partnership Commitment. These coordination and outreach activities are substantially similar to those compensated in D.96-08-040 and most of these activities were performed in 1996. In addition, Greenlining provided no documentation to support its request to double Mr. Gamboa's fees. Although it states that other witnesses have been paid as much as \$300 by private companies for their work in Commission proceedings, Greenlining provides no evidence that Mr. Gamboa's expertise is comparable to the expertise of those witnesses.

The rate of \$125 per hour previously approved for similar activities performed over 1996 continues to be reasonable rate of compensation for staff members of Mr. Gamboa's capacity and experience and we apply it here.

LIF

Latino Issues Forum requests \$250 per hour for the work of attorney Susan E. Brown. In D.96-08-040 we approved a rate of \$225 for Ms. Brown's work before this Commission in 1995 and 1996. Ms. Brown's Declaration asserts that she has been a member of the California and Illinois state bars since 1978, and has been a public-interest trial lawyer for seventeen years. She notes that she has served as a director for the Mexican American Legal Defense and Educational Fund and has additional experience in private practice. We will not increase Ms. Brown's hourly rate for 1996, but will award a rate of \$240 for work performed in 1997.

LIF requests a rate of \$150 per hour for Guillermo Rodriguez, Jr. Ms. Brown's Declaration indicates that Mr. Rodriguez is Executive Director for Latino Issues Forum. Mr. Rodriguez is a graduate of the University of California at Berkeley and a former

member of the U.C. Board of Regents for 1988-90. He has also served on the California Postsecondary Education Commission since 1993, where he is currently vice-chair, as well as on various boards to public utilities. LIF requests compensation for Mr. Rodriguez' work as an expert witness in this proceeding.

We approved an hourly rate of \$95 for Mr. Rodriguez in D.96-08-040, noting that his participation consisted primarily of in-house meetings at Greenlining, meetings with public interest groups and attendance at workshops and hearings. Mr. Rodriguez's contributions are substantially similar to those for which he was compensated in D.96-08-040. LIF provides no documentation to support its request for a 50% increase in Mr. Rodriguez' fees. We do not approve the increase and instead set Mr. Rodriguez' compensation at an hourly rate of \$100, which recognizes Mr. Rodriguez' background and expertise.

5.3.2. Hours Claimed

Greenlining/LIF seeks a large award of compensation for its work in this proceeding. While Greenlining/LIF's contribution to D.97-03-067 was substantial, the number of hours for which it seeks compensation are excessive relative to the number of issues it addressed in the proceeding and their complexity. In addition, Greenlining/LIF's efforts in structuring and advocating the Community Partnership Commitment were duplicative of the efforts of others. For these reasons, we reduce Greenlining/LIF's award in several respects.

Greenlining/LIF's contribution to formation of the Community Partnership Commitment appears to duplicate the work of Public Advocates. While both parties contributed to the final product, we have previously found that a reduction of award is appropriate where an intervenor's contribution has not been singular.

Greenlining/LIF also claims compensation for a large number of hours spent on activities best described as public outreach. Hours listed for attorney Robert Gnaizda as well as experts John Gamboa and Guillermo Rodriguez, list numerous items such as "Preparation & discussions with community groups"; "Community discussions on Public Hearings"; "Community contacts re: settlement &

background info for community contacts. . . " While Greenlining/LIF is justified in claiming time for consulting with its clients, we do not authorize compensation for consensus-building and public outreach to groups which are not affiliated with the client. Greenlining/LIF has not clarified that the "community groups" so often referenced in its timesheets were clients at the time of its contacts or potential ones. In some instances, time is claimed for meeting with members of the Greenlining Coalition. In other cases, time is claimed for meeting with groups who clearly are not members of the Coalition. We have not previously, nor do we anticipate, compensating intervenors for solicitation of clients.

In D.96-08-040, we noted that Greenlining/LIF had claimed a large number of hours on "community outreach projects." As Greenlining had voluntarily reduced their claimed hours by 50% in that proceeding, we did not choose to further reduce the award:

Although we recognize this activity as vital to the mission of GI, it is not the type of participation for which we have previously awarded compensation. Because the voluntary 50% reduction very closely approximates the number of hours which we most probably would have disallowed, we accept this reduction and award compensation for all net hours claimed . . . (D.96-08-040, p. 49.)

A number of Greenlining/LIF's activities appear to be similar outreach efforts, such as meeting with community groups. Greenlining/LIF also seeks compensation for a number of hours related to public outreach: "writing paper for newspaper"; "drafted text for postcard campaign"; "Called Sacramento Chamber of Commerce." Greenlining/LIF has not provided sufficient justification for compensation of these hours.

Finally, Greenlining/LIF's contribution to the Community Partnership Commitment was, to some extent, diluted upon rehearing. D.97-11-035 modified the Community Partnership Commitment in several respects, contrary to the advice of Greenlining/LIF. We do not here disallow specific portions of the request on this basis but the circumstances enter into our consideration more generally of an appropriate award of compensation.

Considering the duplication of effort, the outreach and client solicitation activities by Greenlining/LIF, and the work Greenlining/LIF undertook on rehearing, we reduce Greenlining/LIF's claimed hours by 25%.

Greenlining/LIF requests compensation for 35.0 hours spent by attorney Susan Brown on preparing a compensation request, as well as 4 hours by lead attorney Robert Gnaizda. In the past, we have noted that preparation of a compensation request is somewhat administrative in character, capable of completion by support personnel and not justifying compensation at attorney billing rates. See D.93-04-048, D.93-10-023, D.96-11-040. In keeping with prior Commission practice, we will compensate both attorneys' time on this task at 50%.

5.3.3. Other Expenses

Greenlining lists \$5,209 in miscellaneous costs such as postage, photocopies, and deliveries. These costs are comparable to those incurred by other intervenors and intervenors in other major proceedings. We find these costs reasonable and approve compensation for them.

5.3.4. Total Compensation Award

We herein award Greenlining and Latino Issues Forum \$152,801.82 for its contributions to D.97-03-067.

6. Public Advocates

6.1. NOI

Public Advocates timely filed their NOI in this proceeding and were found eligible to claim compensation by a ruling dated August 16, 1996. That ruling found Public Advocates had made a sufficient showing of significant financial hardship. Public Advocates timely filed their request for compensation on May 30, 1997.

6.2. Contributions to Decision

Public Advocates' participation in this proceeding involved mainly the development of the Community Partnership Commitment. Public Advocates observe that the Commission found the Community Partnership Commitment to provide "vast

economic benefits for a majority of Californians and for California's future wage and tax base, and thus for California's economy, residents, and businesses." Public Advocates also refers to its analysis of the applicability of § 854(b) to the merger.

Public Advocates, like Greenlining/LIF, contributed substantially to the resulting final decision through their involvement with the Community Partnership Commitment. As Public Advocates argue, the agreement allocates economic benefits to consumers.

6.3. Reasonableness of Requested Compensation

6.3.1. Hourly Rates

Public Advocates request compensation in the amount of \$329,409.61 as follows:

Attorney Fees

Mark Savage				
688.85 hrs	x	\$245	=	\$168,768.25
Richard Dwyer				
410.20 hrs	x	\$225	=	\$ 92,295.00
John Affeldt				
24.80 hrs	x	\$215	=	\$ 5,332.00
Stefan Rosenzweig				
5.0 hrs	x	\$350	=	\$ 1,750.00
Law Clerks				
333.03 hrs	x	\$100	=	\$ 33,303.00
Paralegal				
82.05 hrs	x	\$50	=	\$ 4,102.50
		Subtotal	=	\$305,550.75

Expert Fees

Thomas Hargadon				
42.00 hrs	x	\$250	=	\$ 10,500.00

Expenses = \$ 13,358.86

TOTAL REQUEST = \$329,409.61

Public Advocates seek an hourly rate of \$245 for attorney Mark Savage, a 4.3% increase over the 1996 rate of \$235 approved in D.96-12-029. Public Advocates

assert that "[I]ntervenors are requesting a 1997 rate of \$245 per hour." Most of the hours spent working on this proceeding occurred in 1996. Nevertheless, Public Advocates argue for a rate that would be charged in 1997. Public Advocates cites federal case law as well as prior Commission decisions in an effort to demonstrate that prior Commission practice should be overturned here in favor of Public Advocates' theory. Public Advocates cite case law unrelated to our intervenor compensation program. More to the point, we decline to change policy here. Public Advocates' concerns with administration of the intervenor compensation statute would be better addressed in proceedings in which we are reviewing our Intervenor Compensation Program, R.97-01-009/1.97-01-010.

Mr. Savage spent 423.13 hours of his time on this proceeding in 1996, and 256.72 hours in 1997. A \$5 an hour increase over the 1996 approved rate is reasonable. We therefore compensate Mr. Savage at a rate of \$235 for participation in 1996 and \$240 for participation in 1997.

Public Advocates requests an hourly rate of \$350 for attorney Stefan Rosenzweig, a rate 35% higher than that approved for 1995 in D.96-12-029. Mr. Rosenzweig, a 1968 graduate of Boalt Hall School of Law, has practiced public-interest law for nearly thirty years. He lists experience with such organizations as the Legal Aid Society of Alameda, the Harvard Center for Law and Education, California Rural Legal Assistance, and Legal Services for the Florida Keys. Mr. Rosenzweig has served as Executive Director for Public Advocates since June 1994.

D.96-12-029 found that Mr. Rosenzweig's qualifications place him in the first tier of attorneys practicing before this Commission. His experience is comparable to that of Mr. Gnaizda of Greenlining and of Mr. Florio of TURN, whose compensation is the highest we have authorized. Public Advocates do not provide any documentation to support a fee increase to levels higher than those of the most highly compensated attorneys. We have found a 1996 rate of \$260 per hour to be reasonable compensation for these attorneys and approve the rate for Mr. Rosenzweig. As Mr. Rosenzweig lists only 1996 hours in this proceeding, we will apply the 1996 rate here.

Public Advocates seek \$225 per hour for attorney Richard Dwyer. We have not previously determined an hourly rate for this attorney. Mr. Dwyer is a 1989 graduate of Stanford Law School, with approximately seven years' experience in legal practice at the time of his work on this proceeding. Mr. Dwyer's experience has been primarily in private-practice civil litigation. Public Advocates' requested rate would place Mr. Dwyer toward the top of the second tier of attorneys practicing before this Commission. Because Public Advocates have not demonstrated any special experience or expertise to justify this rate, we find that \$185 per hour is a reasonable rate for an attorney of Mr. Dwyer's qualifications, without expertise in California telecommunications law.

Public Advocates request \$215 per hour for attorney John Affeldt. We have not previously considered a rate for Mr. Affeldt, a 1990 graduate of Harvard Law School. Mr. Affeldt's experience includes a federal clerkship following law school, as well as responsibility for a large employment class action while at Public Advocates. We find that \$175 per hour is a reasonable rate for an attorney of Mr. Affeldt's experience.

Public Advocates seek \$100 per hour as compensation for the work of six law clerks throughout the course of this proceeding. We have previously approved a rate of \$55 per hour for the work of law clerks. (D.96-12-029, D.96-06-029.) Public Advocates have not provided any support to justify an increase above this amount. We will apply the rate of \$55 per hour here.

Public Advocates request \$50 per hour for the work of paralegal Daisy Muhammad. This rate is reasonable and will be applied here.

Finally, Public Advocates request \$250 per hour for the work of expert Thomas Hargadon. This rate, originally approved in D.94-11-055, has recently been applied in D.96-06-029 and will be applied here.

6.3.2. Hours Claimed

Public Advocates seek the largest award of any intervenor to this proceeding, although its contributions were limited to only two issues. Public

Advocates' contribution to the proceeding was valuable but nevertheless very narrow, confined almost entirely to the Community Partnership Commitment. Moreover, the majority of hours for which Public Advocates seeks compensation were not dedicated to furthering this agreement. Much of that time was instead devoted to discovery, hearing preparation, review of other parties' submissions, etc. While this time may have been beneficial toward Public Advocates' understanding of the proceedings, it does not appear to have resulted in a substantial contribution. Public Advocates addressed only one issue that was subject to the discovery and hearing process -- that of the Community Partnership Commitment -- and never indicated an intent to address any other. Perhaps for this reason, Public Advocates argues that it would "object . . . to disallowing hours allocated to particular issues merely because a party did not appear to make a substantial contribution on that particular contention, issue, or theory."

The Commission's intervenor compensation program is designed within the framework of a statute which requires that intervenors who seek compensation must make a substantial contribution to the matters for which they seek compensation. In addition, Section 1801.3(c) directs that "[t]he provisions of this article shall be administered in a manner that encourages . . . *effective and efficient* participation . . ." (emphasis added). Section 1801(f) directs that the statute "shall be administered in a manner that avoids unproductive or unnecessary participation . . ." Within these guidelines we consider the reasonableness of hours claimed by an intervenor. In this regard, Public Advocates seek excessive compensation. Public Advocates list a total of 1,129 attorney hours incurred in this proceeding plus legal support of 416 hours. We compare these figures to those submitted by TURN, who participated on many more issues and yet requested less than half the attorney hours. Under these circumstances, awarding full compensation for Public Advocates' time would encourage grossly inefficient participation at ratepayer expense contrary to the intent of the statute.

Finally, Public Advocates' contribution to the Community Partnership Commitment was, to some extent, diluted upon rehearing. D.97-11-035 modified the Community Partnership Commitment in several respects, some of them

contrary to the advice of Public Advocates. We do not here disallow specific portions of Public Advocates' request on this basis but the circumstances enter into our consideration more generally of an appropriate award of compensation.

In D.96-05-064, we reduced by 20% an award of compensation to an intervenor claiming nearly 665 hours on a case that ultimately was resolved through a settlement. We noted that 161 hours spent on the settlement seemed excessive: "This is the equivalent of a solid month, spent doing nothing but thinking, writing and talking about the settlement . . . [Intervenor] offered no insight as to why it was unable to more effectively contain its costs." (D.96-05-064, p. 7.) Similarly, here, Public Advocates seek 1,500 hours of legal work on only two issues, those relating to the Community Partnership Commitment and the applicability of Section 854 to the merger proposed, both matters which were addressed fully by other parties. We are disinclined to compensate Public Advocates for 1,545 hours of legal work on a single policy issue and a single legal issue.

We will reduce Public Advocates hours to account for time spent on matters which did not apparently result in a significant contribution to the proceeding and which appear excessive. We will further reduce the number of hours claimed to account for the duplication of effort, consistent with our treatment of Greenlining/LIF. A total reduction of 50% will be applied to bring the hours claimed to a level we find reasonable

Public Advocates seek compensation for 31.77 hours spent by its attorneys in drafting a compensation request. Consistent with our policy, we reduce by 50% the rate applied to hours spent in preparing the request.

6.3.3. Other Expenses

Public Advocates claim \$13,358.86 in miscellaneous expenses. Of this, Public Advocates seeks \$9,080.40 for photocopying, nearly twice as much as that claimed by Greenlining/LIF, and 2.5 times the amount claimed by TURN. Public Advocates also seek recovery of expenses associated with delivery services, hotel and airfare for individuals who are not identified as attorneys or witnesses working on

issues in the proceeding and for which we therefore do not grant compensation. We reduce Public Advocates' award for miscellaneous expenses by 50% because they appear excessive and because Public Advocates claim expenses which are not justified.

6.3.4. Total Compensation

We herein award Public Advocates a total award of \$149,868.60 for its contributions to D.97-03-067.

7. Procedural Status of Proceeding

The foregoing resolves all outstanding matters in this proceeding with the exception of a protest filed by TURN and UCAN in response to applicant's submittal of service quality data. Since TURN and UCAN filed that protest on July 21, 1997, TURN has filed a formal complaint which addresses the issues raised in its July 21 protest filed here, among other things, (see Case (C.) 97-09-043 filed by TURN on September 25, 1997). In order to promote efficient use of our process, we herein direct that all service quality issues raised in this proceeding since the issuance of D.97-03-067 be deferred to C.97-09-043. In C.97-09-043, the Commission may take official notice of the record in A.96-04-038. Deferring these remaining issues to C.97-09-043 leaves no disputes requiring resolution in this proceeding and we therefore close the proceeding.

Findings of Fact

1. All intervenors have made a timely request for compensation for their contribution to D.97-03-067.
2. TURN made a timely request for its contribution to D.97-11-035.
3. The Greenlining Institute and Latino Issues Forum have each made a showing of significant financial hardship by demonstrating the economic interests of its individual members would be extremely small compared to the costs of participating in this proceeding.
4. Greenlining/LIF made a substantial contribution to D.97-03-067.
5. Public Advocates made a substantial contribution to D.97-03-067.
6. TURN made a substantial contribution to D.97-03-067 and D.97-11-035.
7. UCAN made a substantial contribution to D.97-03-067.

8. The hourly rates requested for the individual attorneys, expert witnesses, and staff members of the intervenors, as modified by this decision, are reasonable.

9. The hours requested by Greenlining/LIF should be discounted by 25% to reflect duplication of the work of other parties and to reflect disallowed time spent on community outreach and client solicitation.

10. The hours requested by Public Advocates should be reduced by 50% to reflect excessive hours claimed and a duplication of effort.

11. The hours requested by TURN should be reduced by 10% to reflect duplication of work by other parties.

12. The hours requested by UCAN should be reduced by 5% to reflect duplication of work by other parties.

13. The miscellaneous expenses requested by Greenlining/LIF and UCAN are reasonable. Public Advocates' claimed expenses should be reduced by 50% to reduce excessive expenses for photocopying and expenses not justified. The expenses claimed by TURN are reasonable with the exception of consulting fees charged by Economists, Inc. for which TURN provides no support.

Conclusions of Law

1. Greenlining/LIF, Public Advocates, TURN, and UCAN have fulfilled the requirements of Sections 1801-1812 which govern awards of intervenor compensation.

2. Greenlining/LIF should be awarded \$152,801.82 for its contribution to D.97-03-067.

3. The parties represented by Public Advocates should be awarded \$149,868.60 for Public Advocates' contribution to D.97-03-067.

4. TURN should be awarded \$163,344.88 for its contribution to D.97-03-067 and \$10,550.50 for its contribution to D.97-11-035.

5. UCAN should be awarded \$154,854.65 for its contribution to D.97-03-067.

6. This order should be effective today so that intervenors awarded compensation herein may be compensated without unnecessary delay.

O R D E R

IT IS ORDERED that:

1. Greenlining and Latino Issues Forum are awarded \$152,801.82 in compensation for its substantial contribution to Decision (D.) 97-03-067. Pacific Bell shall, within 30 days of the effective date of this order, pay this amount to Greenlining and Latino Issues Forum and shall also pay interest on the award at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release G.13, with interest, beginning August 12, 1997 and continuing until full payment is made.
2. The parties represented by Public Advocates are awarded \$149,868.60 in compensation for Public Advocates' substantial contribution to D.97-03-067. Pacific Bell shall, within 30 days of the effective date of this order, pay this amount to the parties represented by Public Advocates and shall also pay interest on the award at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release G.13, with interest, beginning August 13, 1997 and continuing until full payment is made.
3. The Utility Reform Network is awarded \$163,344.88 in compensation for its substantial contribution to D.97-03-067. Pacific Bell shall, within 30 days of the effective date of this order, pay this amount to the Utility Reform Network and shall also pay interest on the award at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release G.13, with interest, beginning August 7, 1997 and continuing until full payment is made.
4. The Utility Reform Network is awarded \$10,550.50 in compensation for its substantial contribution to D.97-11-035. Pacific Bell, shall within 30 days of the effective date of this order, pay this amount to the Utility Reform Network.
5. Utility Consumers' Action Network is awarded \$154,854.65 in compensation for its substantial contribution to D.97-03-067. Pacific Bell shall, within 30 days of the effective date of this order, pay this amount to Utility Consumers' Action Network and shall also pay interest on the award at the rate earned on prime, three-month

commercial paper, as reported in Federal Reserve Statistical Release G.13, with interest, beginning August 13, 1997 and continuing until full payment is made.

6. All outstanding controversy raised in this proceeding since the issuance of D.97-03-067 will be deferred to Case 97-09-043 wherein the Commission may take official notice of the record in this proceeding.

7. This proceeding is closed.

This order is effective today.

Dated April 9, 1998, at San Francisco, California.

RICHARD A. BILAS

President

P. GREGORY CONLON

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

Commissioners