

Decision 98-11-017 November 5, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Jack H. Shields, Billie L. Shields,

Complainants,

vs.

Volcano Telephone Company and Pacific Bell,

Defendants.

**ORIGINAL**

Case 95-02-019

(Filed February 28, 1995;  
amended June 19, 1995)

Jack H. Shields and Billie L. Shields, for themselves,  
complainants.

Jeffrey F. Beck and Jillisa Bronfman, Attorneys at Law,  
for The Volcano Telephone Company; and  
L. Nelsonya Causby, Attorney at Law,  
for Pacific Bell; defendants.

David Sirias, for Calaveras County, interested party.

Cleveland W. Lee, Attorney at Law, and  
Martin J. O'Donnell, for the Division of  
Ratepayer Advocates.

**OPINION**

This decision grants Jack and Billie Shields (Complainants) an award of \$30,400 in compensation for their contribution to Decision (D.) 97-06-106.

**1. Background**

Complainants initially brought a claim on March 28, 1995 seeking to require Volcano Telephone Company (Volcano) to provide prefix 293 (West Point) with toll free access to four prefixes, Angel's Camp (736), prefix 223 (Jackson), prefix 754 (San Andreas), and prefix 772 (Valley Springs).

Complainants demanded access to San Andreas and couched their request for Valley Springs, Jackson, and Angel's Camp as a preference.

Complainants' initial claim included a letter of support from the Calaveras County Board of Supervisors seeking toll free access from prefix 293 (West Point) to prefix 754 (San Andreas), and Angel's Camp (736). It also attached a petition with 360 signatures in support of toll free access from prefix 293 (West Point) to prefix 754 (San Andreas).

Volcano filed its Answer on April 3, 1995, and argued that the complaint be dismissed.

On April 26, 1995 Calaveras County formally intervened in support of Complainants' petition. David E. Sirias, Deputy County Counsel set forth the County's concerns in a three page April 19, 1995 declaration which asked that calls from prefix 293 (West Point) to prefix 754 (San Andreas) be made toll free.<sup>1</sup> Sirias declared that "most if not all essential government services [were] located in San Andreas" and "many educational, commercial, and medical related establishments only [were] available" in the 754 area code. Sirias also attached a verification from Merita Callaway, then Chair of the Calaveras County Board of Supervisors, affirming the declaration's facts.

A series of settlement conferences were held between April 10, 1995 and September 21, 1995. The purpose of the conferences was to facilitate settlement, gather information, and refine positions.

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<sup>1</sup> "Petition to Intervene," (Declaration of David E. Sirias, Deputy County Counsel, Attorney for Intervenor Board of Supervisors of the County of Calaveras) ("Sirias Decl.").

<sup>2</sup> Sirias Decl. ¶4.

The evidentiary hearings took place over a two-day period between January 31, 1996 and February 1, 1996. Complainants put on nine witnesses, submitted over 70 declarations and presented 19 exhibits. Some of Volcano's exhibits came in response to Complainants' subpoenas or orders by the ALJ which were initiated by Complainants' document requests.

Further fact gathering and refining of positions took place after the hearing. Complainants narrowed their request to only include extended area service (EAS) from prefix 293 (West Point) to prefix 754 (San Andreas), and prefix 223 (Jackson). Volcano insisted on having no EAS's imposed and stood by their offer to assign 800 numbers to specified parties. ALJ Mattson ordered Volcano to survey whether residents would pay additional charges for an EAS to prefix 754 or would simply be content to use Volcano's offer of the specified 800 numbers. He also directed Volcano to ascertain whether customers would support additional charges for an EAS from prefix 293 (West Point) to prefix 223 (Jackson) and prefix 772 (Valley Springs). The additional exhibits, evidence and survey were all submitted by October 9, 1996 and a proposed decision was presented to the Commission.

On June 25, 1997, the Commission issued D.97-06-106 in this matter. The Commission adopted Volcano's proposal to assign 800 numbers for prefix 754 (San Andreas) government and social service agencies and organizations. It granted Complainants' motion to dismiss Pacific Bell as a defendant, finding that nothing in the evidence mandated a two way EAS number, that Complainants do not allege an action, or failure to act, by Pacific Bell, and that Pacific Bell was not responsible for any other costs. It ordered that a one way EAS be set up between prefix 293 (West Point) and prefix 223 (Jackson). It rejected an EAS between prefix 293 (West Point) and prefix 772 (Valley Springs) and acknowledged that while Complainants had mentioned this relief in closing arguments they had

dropped it in their closing briefs. Finally the Commission affirmed the ALJ's findings that Complainants met the financial eligibility criteria for filing a request for compensation and gave them 60 days from June 25, 1997 to make such a request.<sup>3</sup> A timely Request for Compensation was filed on September 24, 1997. Pacific Bell and Volcano each filed responses. Complainants replied to Volcano's response.

## 2. Requirements for Awards of Compensation

Intervenors who seek compensation for their contributions in Commission proceedings must file requests for compensation pursuant to Public Utilities (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

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<sup>3</sup> Complainants were subsequently granted an extension, pursuant to Rule 48(b).

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 people with comparable training and experience who offer similar services, consistent with § 1806.

### **3. NOI to Claim Compensation**

Jack and Billie Shields were found to be eligible for compensation in this proceeding by a ruling dated October 9, 1996. The same ruling found that Jack and Billie Shields had demonstrated significant financial hardship.

### **4. Contributions to Resolution of Issues**

A complainant has three options of satisfying the requirement of making a substantial contribution to a decision. It may offer a factual or legal contention that the Commission relied on in making its decision. Or Complainant may advance a specific policy or procedural recommendation that the Commission adopted. The Commission ultimately decides whether this criteria has been met.<sup>4</sup>

In this particular instance, the Commission needed to determine whether an EAS was justified between prefix 293 (West Point) and the following prefixes,

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<sup>4</sup> Cal. PUC § 1802(h).

754 (San Andreas), 772 (Valley Springs), and 223 (Jackson). This demanded that the Commission evaluate three sets of criteria.<sup>5</sup>

First, Complainants had to prove a community of interest existed between the calling areas. The Commission examines the following items to determine whether a community of interest exists.<sup>6</sup> It looks at the average number of calls placed between calling areas. Although no minimums have been set, the Commission usually checks to see if callers place 3 to 5 calls a month. It measures the percentage of area callers who phone the toll area at least once a month. Generally the Commission wants to see about 70% of customers making those calls. Finally, it seeks to ensure that customers can reach "essential services" without paying toll costs. Essential services have been defined to include police, fire, medical, legal, schools, banking, and shopping.

Second, complainants had to show customer support for expanding the calling area. This is usually proven by use of a customer survey. The Commission realizes that the most vocal supporters will attend the hearing, so it seeks to make sure all the customers' opinions are solicited.

Third, complainants had to prove that the EAS can be established with reasonable rates. The Commission measures whether the loss of toll revenue as a result of the EAS is offset by the increased exchange and other revenue without creating unreasonable rates for any customer or customer group.

As shown below, Complainants substantially contributed to the Commission's decision in this matter. They provided evidence upon which the

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<sup>5</sup> D.97-06-106 at 7, quoting D.77311 (71 CPUC 160), D.91-01-11 (cited by not reported at 39 CPUC 2d 208), D.93-09-081 (51 CPUC 2d 422), D.93-09-083 (51 CPUC 2d 449), D.96-01-010, and D.96-08-039.

<sup>6</sup> D.96-06-019 at 7.

Commission relied in making its findings that a community of interest and customer support existed both for the prefix 754 (San Andreas) 800 plan and the prefix 223 (Jackson) EAS. Complainants also successfully argued for the use of the Salinas formula,<sup>7</sup> which proved the cost effectiveness of the EAS to prefix 223 (Jackson).

***4.1 Specified 800 Calls from prefix 293 (West Point) to 754 (San Andreas)***

Although the Commission adopted Volcano's proposal to adopt an 800 number, the record indicates that Complainants laid the groundwork for this compromise. The Commission did not believe that a sufficient number of calls existed between prefix 293 (West Point) and prefix 754 (San Andreas) to justify an EAS, but did find that West Point caller's could not access essential services without incurring a toll charge.

Complainants brought forward most of the evidence cited by the Commission. For example, complainants offered Exhibit 2, which listed the essential services in prefix 754 (San Andreas) that could not be reached by prefix 293 (West Point) residents without incurring a toll call. Other items cited included the County's letter and declaration, the 360 signatures on the complainant initiated petition drive, and Volcano's survey results indicating customers preferred having specified 800 numbers over incurring additional charges to support an EAS to prefix 754 (San Andreas). The Volcano survey was ordered after the Complainants had presented their proof.

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<sup>7</sup> The Salinas Formula allows a utility to allocate some of the costs of supporting an EAS to its customers in the form of an additional charge \$1.30 (residential), \$0.65 (lifeline) and \$3.85 (business). D. 77311, (71 CPUC 160) 1970).

Normally, the Commission does not approve payment for work done by intervenors to encourage their legislators to support them.<sup>9</sup> This case is different, however, because Complainants went beyond the usual letter of support from government officials. They arranged for the Deputy County Counsel to write a three page declaration outlining how essential services were not accessible to West Point residents. They called government and business officials to testify at the actual hearing in support of toll free access to prefix 754 (San Andreas).<sup>9</sup> They presented declarations from the County Sheriff, the high school principal, the post mistress, and the animal control/air pollution control officer explaining how they could not adequately meet the public's needs due to the toll charges. Although these written declarations were in response to a pre-printed form, the county officials' responses were all spontaneous and specific to his or her office. This amounted to development of a fact-based record that proved instrumental in supporting the Commissions' finding that a 800 plan was necessary to meet the "essential services" of prefix 293 (West Point) callers.

Complainants put a great deal of time and effort into a petition drive which assisted them in the preparation of their position on community of interest and customer support.<sup>10</sup> They live in a rural county, which meant that they had

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<sup>9</sup> See, for example, D.96-09-086.

<sup>9</sup> Complainants called the following witnesses: Merita Callaway, Chair Calaveras County Board of Supervisors, Henry Petrino, Director of Support Services Calaveras Unified School District, Marta Johnson, Social Services and Discharge Planning Officer for Mark Twain St. Josephs Hospital, Robert Louis, Director of the Senior Center and Senior Services, and Paul Stein, president of the West Point Merchants Association.

<sup>10</sup> We note that the time and effort Complainants dedicated to the petition drive exceeded the amount necessary for we only require 25 (as opposed to 360) signatures from customers or the signature of the mayor or the majority of the legislative body (Rule 9(a)).



to travel great distances to get the signatures. The relative scarcity of the population also meant that this process took some time. Additionally, complainants also collected approximately 34 declarations from local residents and business owners which explained what impact not having toll free access had on their lives. These declarations ranged from one sentence in length to several pages. Complainants also recruited Dennis Dickman to present demographic data which illustrated the high poverty rates in the local calling areas.

Finally, Volcano acknowledged Complainants' contribution to the decision on this issue. As late as the opening day of the hearing, Volcano held to the position that its customers' needs were being met under the existing plan. It only offered the plan at the end of the first day of the hearings as noted by Mr. Beck's comment "It's the company's way of addressing the most critical needs that have been expressed here today."<sup>11</sup>

#### **4.2 EAS between prefix 293 (West Point) to prefix 223 (Jackson)**

Complainants supplied the information that led to the Commission's finding that an EAS was needed between prefix 293 (West Point) and prefix 223 (Jackson). They testified,<sup>12</sup> and presented witness declarations<sup>13</sup> about the expense prefix 293 (West Point) callers faced when calling the businesses in prefix 223 (Jackson).

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<sup>11</sup> 1 RT 204.

<sup>12</sup> Complainants testimony included both their own and other's experiences.

<sup>13</sup> At least ten of the witness declarations submitted by Complainants as Exhibit 4, mention Jackson specifically. This is despite the fact that the heading on the declaration mentions only San Andreas (754).

Complainants successfully proposed changes to Volcano's survey to ensure customers would clearly understand the cost of an EAS. Complainants influenced Volcano's changes to the survey's language which help ensure consumers did not think they would incur two charges for an EAS.<sup>14</sup>

Complainants also objected to Volcano's original survey language which stated that West Point (293) callers called San Andreas (754) one time and Jackson (223) two times a month. They submitted exhibits to show that calls were actually made 6.5 times to San Andreas (754) and 6.7 times to Jackson (223) a month.<sup>15</sup> Volcano dropped this language from the survey. Finally Complainants continued to handle questions and complaints regarding this survey from the press and public after the hearing.

Additionally, Complainants gathered the evidence to show that a cost of a one way EAS from prefix 293 (West Point) to prefix 223 (Jackson) could be borne through use of the Salinas formula. The Commission found that Volcano's cost of implementing the EAS, after the application of the Salinas formula and other offsets, was a negative \$10,872.<sup>16</sup>

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<sup>14</sup> In a May 30, 1996 letter to ALJ Mattson, Billie Shields points out that the survey's language could be interpreted to read that consumers would pay the \$1.30 consumer *and* a \$3.60 business charge to get an EAS, rather than \$1.30 *or* \$3.60 business charge. Their language was adopted by Volcano after consultation with the Public Advisor.

<sup>15</sup> Shields May 30, 1996 letter to ALJ Mattson.

<sup>16</sup> Decision (D.) 97-06-019 at 19.

### 5. The Reasonableness of Requested Compensation

Billie and Jack Shields request compensation in the amount of \$75,983 as follows:

Non-Clerical Hours	(608 hrs. @ \$100/hr.)	\$60,800
Clerical hours	(50 hrs. @ 25/hr.)	\$ 1,250
Dennis Dickman's hours	(15 hrs. @ \$75/hr.)	\$ 1,125
Photocopying		\$ 180
Mileage	(.32 x mi.)	\$ 368
Phone		\$ 100
Efficiency Adder	(20% x \$60,800)	\$12,160
Total		\$75,983

#### 5.1 Hours Claimed

The total amount of time requested by the Shields is not reasonable because it includes impermissible items is excessive due to inefficient and inexpert advocacy, and includes excessive hours for the organizing and gathering of unnecessary signatures. The Commission does not compensate intervenors for time spent contacting the media, so time spent working on press releases will be deleted. Normally, too, the Commission does not compensate intervenors for time spent gathering legislative support. In this case, the Commission will make an exception since the Complainants' efforts led to the establishment of a fact-based record. Although Complainants were not experts in presenting a fact-based case, and as a result were not efficient in the use of their time, they purport to have voluntarily reduced their claim by 200 hours. We believe a further reduction of 25%, applied to otherwise reasonable, non-clerical hours, expended by the Shields is warranted. The Commission will adjust the hours to record as clerical entries claimed as non-clerical, but which are more appropriately recorded as clerical services. Among these hours, we include, for example, gathering signatures, organizing, photocopying, and mailing

documents. Finally, the approximately 82 hours spent organizing and gathering petition signatures well in excess of the required 25 demonstrate an excessive and inefficient use of time. We will reduce these hours to 35 to arrive at a reasonable number of hours spent on this activity.”

The Commission notes, too, that Complainants did not properly document their hours. They failed to record hours by date and did not allocate their time by issue. Given, though, that the Complainants are not attorneys and are not experienced practitioners, we will overlook it in this case. If Complainants participate in future proceedings, however, they must meet our requirements for recording hours. This should include the use of dates for all hourly entries, an allocation of hours to issues, and a clearer breakdown between clerical and non-clerical activities.

### **5.2 Hourly Rates**

The Commission looks to the work experience, expertise, skills applied, and effectiveness of a customer’s participation when setting compensation rates. The customer cannot be compensated at a rate that exceeds the “market rate paid to persons of comparable training and experience who offer similar services.”

Mr. Shields states that his previous work experience included book and record sales and promotion, fundraising and directing food projects and disaster relief for a non-profit organization, and organizing and fundraising for youth groups and events. Ms. Shields states that she has seven years experience teaching in private schools, home schooling, and worked three years as a

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” Even 35 hours for collecting signatures is excessive, but since Complainants also gathered information which assisted in the preparation of testimony on the issue of community interest, we find 35 hours reasonable.

secretary. The Shields presented testimony, cross-examined witnesses, filed and responded to motions, filed comments, and filed briefs. In preparing their case, they conducted interviews within the affected communities and generally educated themselves on Commission process and EAS policy. Among the testimony the Shields presented was a map of the communities of interest and demographic information presented by Dennis Dickman, a consultant to the Shields. Mr. Dickman, of Dennis Dickman and Associates, works as a planning, utility and environmental consultant.

#### **5.2.1. Awards Given Other Non-Attorneys**

The Commission had awarded non-attorney advocates fees that range from a low of \$35 to a high of a \$100 an hour. There has been no set rules developed but several things can be gleaned from past decisions.

One distinguishing factor seemed to be the level of assistance customers had from attorneys. For example, in 1995, the Commission awarded Mr. Wolfe, a representative from Senior Utility Ratepayers of California (SUROC), \$35 an hour as a lay person in charge of an advocacy organization.<sup>15</sup> The Commission stressed that Mr. Wolfe had made a substantial contribution, but noted that he lacked the technical expertise necessary to the process. Mr. Wolfe's organization, however, was joined by attorneys from Toward Utility Rate Normalization (TURN) and Latino Interest Forum (LIF) so he did not bear the sole responsibility like the claimants in this matter.

Another factor, perhaps, is the level of "legal-type" skills that the claimant had to demonstrate. George Sawaya, a retired state worker,

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<sup>15</sup> See D.95-08-051, Cal. PUC 142, 149 (1995).

received \$100 an hour<sup>19</sup> for his efforts in providing "thorough and thoughtful testimony" about Pacific Bell's failure to notify certain customers, especially rural ones, about a refund program it had to offer to correct for misleading Pacific Bell customers about a touch-tone program.<sup>20</sup> Mr. Sawaya's work, however, included responding to Pacific Bell's application for rehearing and its writ of review to the California Supreme Court.

At first glance, the Commission's recent decision to award Kathleen and Mark Lyon (Lyons) \$65 an hour for their work against Matrix's slamming techniques, seems to more accurately resemble the Shields' work. A closer look, however, shows some significant differences in the way the proceedings unfolded which affected the participation, and therefore, skills that needed to be applied to make a substantial contribution.

The Lyons had a major tactical advantage over the Shields. Defendant Matrix failed to answer the formal complaint and ignored the ALJ's orders to provide an answer, so the Lyon's facts were accepted as undisputed.<sup>21</sup> Thus, unlike the Shields, the Lyons did not have to formally contest the facts offered by their defendants. The Commission also formally relied on two other states' investigations of Matrix's illegal acts of switching customers without their consent.<sup>22</sup> This gave the Lyons the benefit of evidence gathered by other state

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<sup>19</sup> Sawaya received a total of \$35,671 which included time allocated as a public advocate (402 hours at \$100), paralegal (31 hours at \$75) and clerical (40 hours at \$22), as well as costs of \$541.

<sup>20</sup> The original decision involving Sawaya is reported at D.93-04-057. The compensation decision is reported at D.95-05-018.

<sup>21</sup> 53 PUC 2nd 431, 434 (1994.)

<sup>22</sup> *Id.* at 435.

agencies that showed defendant's previous bad acts. Again the Shields had no such support.

The final difference lies in the approach the parties took to documenting their efforts. The Shields did a better job of documenting their substantial contribution to the proceedings. Although it suffered from some inefficiencies, as will be noted below, it did convey a real sense of the items they accomplished and obstacles they faced. The Lyons, on the other hand, were chastised for turning in a very brief statement of substantial contribution and cautioned never to do it again.<sup>23</sup> The Lyons also devoted 238.75 hours or 34% of their time to preparing their compensation request, while the Shields spent 59 hours or 9% of their time on their request.

### ***5.2.3 Complainants Arguments For Their Rate***

Complainants argued that their work puts them in the category of public advocate and expert. Complainants are seeking a blended rate of \$100 an hour for 608 hours as public advocates (\$60,800), \$75 an hour for 15 hours of Denis Dickman's<sup>24</sup> work in preparing testimony, maps and exhibits (\$1,125), and \$25 an hour for 50 hours of clerical work by Billie Shields (\$1,250).

In addition, Complainants are seeking an enhancement of 20% as an efficiency adder for serving as advocate, witness and council (\$12,160). Complainants are also claiming \$648 in cost and expenses. This brings the total request to \$75,983.

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<sup>23</sup> D.98-05-036, mimeo. at 4.

<sup>24</sup> Dickman owns "Denis Dickman & Associates, Planning, Utility and Environmental Consultants." He provided demographic data, maps, and testimony. \$75 is his standard rate.

#### **5.2.4. Volcano's Opposition**

Volcano filed a formal opposition to the Complainants request on October 22, 1997. They proposed that Complainants only receive \$9,428 for their efforts.

Volcano admitted that Complainants had contributed time and effort. It argued, however, that Complainants' inefficiencies meant they should only be compensated for 2/3 of their requested hours, which was 439 hours. Volcano was also willing to overlook Complainants' failure to document their expenses and so waived any objections to the \$648 claim.

What Volcano was not willing to overlook, however, was Complainants' request for \$100 an hour. It emphasized that Complainants had no prior legal, telecommunications, or policy related experience. It also quoted ALJ Mattson's compensation ruling that Complainants did not have expertise and training similar to a trained legal representative. ALJ Mattson was rejecting Complainants initial argument that they be compensated at attorney rates.

Volcano countered, instead, that Complainants should get only \$20 an hour for their efforts. Volcano, however, provided scant support for this position. They pointed to the previously mentioned SUROC decision which awarded the lay organizer only \$35 an hour. As noted above, that case is distinguishable. Volcano also argued that \$20 an hour would place the Complainants in the same position as a Commission employee who made \$42,000 a year.

#### **5.2.5. Shields Rate**

The Shields requested compensation of \$75 an hour for Mr. Dickman's services and \$25 an hour for clerical work is reasonable for the services performed. With respect to other non-clerical work, we conclude that Mr. Sawaya had to do more, both in terms of the recalcitrance of the opposing



utility and given his need to answer the Application for Rehearing and Writ of Review. However, Complainants faced more of a burden than did Mr. Wolfe, who had the support of two advocacy organizations. Finally, as noted above, the nature of this proceeding required that Complainants expend greater effort and skill than the Lyons. Taking this into consideration in light of § 1806, we find an hourly rate of \$70 for the non-clerical work performed by the Shields to be reasonable. While the level of legal work the Shields performed approached Mr. Sawaya's, it lacked the clarity of presentation of his work.

We also conclude that it is not reasonable for Complainants to receive the efficiency enhancement of 20%. Enhancement is normally reserved for customers who have the ability to serve both as technical experts and legal advocates. Although Complainants did a commendable job, their work does not rise to the level of expert or advocate worthy of enhancement.

Complainants claim the full hourly rate for travel time. It is our practice to only compensate non-clerical time spent in travel at one-half the otherwise applicable rate, unless the customer demonstrates that travel time was concurrently spent working on the case (i.e., reading pleadings during air or train travel). We will apply this policy to Complainants' travel time. From the time records, we estimate that at least 8 of the claimed non-clerical hours were spent driving. For example, 4 hours were spent driving to the evidentiary hearing. Other hours include driving and another activity, like participating in a meeting. We will compensate Complainants at the hourly rate of \$35 for 8 hours of travel time associated with a non-clerical activity.

### ***5.3. Other Costs***

Complainants failed to properly document their costs. The Commission normally demands that all expenses be accompanied by receipts. Again, given Complainant's inexperience and that their efforts pre-dated 1804,

this will be overlooked. The Commission also notes that the costs claimed (\$648) are relatively small compared to the amount of time and effort expended. In any future participation, however, Complainants must fully document their expenses if they expect to be compensated.

### 6. Award

We award Jack and Billie Shields, calculated as follows:

Non-Clerical	364.3 hrs. @ \$70/hr.	\$25,499
Clerical	113.9 hrs. @ \$25/hr.	\$ 2,848
Travel	8 hrs. @ \$35/hr.	\$ 280
Dennis Dickman	15 hrs. @ \$75/hr.	\$ 1,125
Photocopying		\$ 180
Mileage	.32 x mi.	\$ 368
Phone		\$ 100
Total:		\$30,400

This award is to be paid by Volcano. Since Pacific Bell was dismissed from this proceeding, it is not a subject of this proceeding under § 1807, and should therefore not be required to pay any award.

Consistent with previous Commission decisions, we will order that interest be paid on the award amount (calculated at the three-month commercial paper rate), commencing December 8, 1997, (the 75<sup>th</sup> day after Jack and Billie Shields filed their compensation request) and continuing until the utility makes its full payment of award.

As in all intervenor compensation decisions, we put Complainants on notice that the Commission Telecommunications Division may audit Jack and Billie Shields' records related to this award. Thus, Jack and Billie Shields must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Jack and Billie Shields' records should identify specific issues for which it requests compensation, the actual time spent

by each participant, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation may be claimed.

**Findings of Fact**

1. Complainants have made a timely request for compensation for its contribution to D. 97-06-106.
2. Complainants contributed substantially to D.97-06-106.
3. Complainants have requested hourly rates for Mr. Dickman and clerical services that are no greater than the market rates for individuals with comparable training and experience.
4. An hourly rate of \$70 for the non-clerical work performed by Complainants is reasonable in light of its lack of expertise and the lack of clarity in Complainants' work product, balanced with the fact-based showing.
5. Complainants should be compensated at the hourly rate of \$35 for 8 hours of travel time associated with non-clerical activities.
6. The miscellaneous costs incurred by Complainants are reasonable.

**Conclusions of Law**

1. Complainants have fulfilled the requirements of §§ 1801-1812 which govern awards of intervenor compensation.
2. Complainants should be awarded \$30,400 for its contribution to D.97-06-106.
3. Volcano should be directed to pay the award.
4. This order should be effective today so that Complainants may be compensated without unnecessary delay.
5. All outstanding issues having been addressed, this proceeding should be closed.

**O R D E R**

**IT IS ORDERED that:**

1. Jack and Billie Shields are awarded \$30,400 in compensation for their substantial contribution to Decision 97-06-106.
2. Volcano Telephone Company (Volcano) shall pay Jack and Billie Shields \$30,400 within 30 days of the effective date of this order. Volcano 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 December 8, 1997, and continuing until full payment is made.
3. This proceeding is closed.

This order is effective today.

Dated November 5, 1998, at San Francisco, California.

**RICHARD A. BILAS**  
President  
**P. GREGORY CONLON**  
**JESSIE J. KNIGHT, JR.**  
**HENRY M. DUQUE**  
**JOSIAH L. NEEPER**  
Commissioners