

BEFORE THE PUBLIC UTILITIES COMMISSION OF
THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Proposed Policies and Programs Governing Post-2003 Low Income Assistance Programs.
And Related Matters:

R. 04-01-006

A.05-06-005
A.05-06-009
A.05-06-012
A.05-06-013

REQUEST FOR AWARD OF INTERVENOR COMPENSATION

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I. INTRODUCTION

Pursuant to California Public Utilities Code ¹ § 1801 *et seq.* and Rule 76.71 *et seq.* of the Commission’s Rules of Practice and Procedure, Disability Rights Advocates (“DRA”) hereby requests that the California Public Utility Commission (“the Commission”) award it compensation in the amount of \$35,448.68. This is within the estimate made by DRA in its NOI. DRA is entitled to compensation pursuant to § 1801 *et seq.* because (1) the Commission granted DRA customer status for this proceeding; (2) without compensation, DRA will experience significant financial hardship; (3) DRA’s contributions to Decision 05-10-044, arising from Rulemaking 04-01-006, have been substantial; and (4) DRA is timely filing this Request for Compensation.

In light of anticipated increases in energy prices this winter, the Commission recognized the need to protect low-income customers. Accordingly, on September 13, 2005, the Commission noticed a Full Panel Hearing on October 6, 2005 under the auspices of pending proceeding R.04-01-006. The Commission explained that the hearing would “explore the full range of actions that the utilities, regulators, and individual consumers [could] undertake to reduce the impact of higher costs” with input from the utilities and consumer and community groups.² Following this notice, the Commission invited DRA, as an appropriate community group, to testify at the hearing. Prior to this invitation to participate at the full panel hearing, DRA had not been a party to this proceeding.³ Following the hearing and subsequent Commission decision, DRA has continued to participate. At this time, however, DRA is only seeking compensation for work performed in conjunction with the Commission’s effort to address the natural gas price increases. DRA not only contributed to the resulting overall plan approved by

¹ All statutory cites are to the California Public Utilities Code unless otherwise specified.

² Notice of October 6, 2005 Full Panel Hearing in Los Angeles, R.04-01-006.

³ DRA submitted its Motion to Intervene and Notice of Intent to Seek Compensation on October 7, 2005, the day after the *en banc* hearing.

the Commission in D.05-10-044, but also used its participation in this proceeding to initiate an ongoing dialogue with the utilities to protect the rights of persons with disabilities. Specifically, in regards to the Commission decision, DRA supported general protections for low-income persons that would also protect persons with disabilities, including a no-shut off policy, a no backbilling policy and expanded opportunities for enrollment in CARE during the 2005-2006 winter heating season. DRA also advocated for disability specific proposals, such as ensuring that the Medical Baseline Allowance program provided a review and appeals process and providing for greater accessibility through alternative format application forms for low income programs and greater accessibility in customer service by the utilities. DRA's efforts for persons with disabilities were not duplicated by any other group in the proceeding.

II. DRA'S NOI WAS ACCEPTED AND THIS REQUEST FOR AWARD OF COMPENSATION IS TIMELY.

DRA's Notice of Intent to Seek Compensation was filed on October 7, 2005 in conjunction with a Motion for Leave to Intervene in this proceeding. The Commission granted DRA intervenor status on November 7, 2005, and on December 28, 2005, found that DRA was eligible to seek compensation in this proceeding.⁴ This request for intervenor compensation is being filed within 60 days of November 7, 2005, the date the Commission mailed the final decision in this aspect of the proceeding⁵ and is, therefore timely under § 1804(c).

⁴ D.05-10-044, p. 28, fn. 12; Administrative Law Judge's Ruling on Several Notices of Intent to Request Compensation, Dec. 28, 2005, p 5.

⁵ D.05-10-044. DRA is applying for compensation now because the decision concludes a discrete portion of the proceeding. Section § 1804(c) makes clear that compensation may be sought after a final decision in a proceeding or hearing. D.05-10-044 signified the final decision for the issues raised at the *en banc* hearing of October 6, 2005. As such, it is appropriate for DRA to seek compensation at this point. DRA, however, is continuing participation in the broader proceeding and as appropriate may seek further compensation.

III. DRA MADE A SUBSTANTIAL CONTRIBUTION, BUT WITHOUT COMPENSATION DRA WILL EXPERIENCE SIGNIFICANT FINANCIAL HARDSHIP.

Section § 1803 outlines the two requirements which a customer must satisfy in order to be awarded reasonable fees and costs: (1) the customer makes a substantial contribution to the adoption, in whole or in part, of the Commission's order or decision; and (2) participation or intervention without an award of fees or costs imposes a significant financial hardship. DRA meets both of these requirements; and thus, should be awarded reasonable fees and costs.

A. DRA's Contributions Have Been Substantial

Once DRA joined this proceeding, it served as an active participant. While the Commission did not adopt every recommendation DRA proposed, the Commission responded to all of DRA's recommendations and, based on DRA's factual contentions, directed ongoing negotiations with the utilities regarding the Medical Baseline Allowance Program and accessibility issues.⁶ Therefore, the Commission should not hesitate in finding DRA's contributions substantial under Section 1802(h) which states:

'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 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 the customer's contention or recommendation 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.

⁶ D.05-10-044, p. 28 – 29.

Specifically, the Commission (1) adopted many of the proposals which DRA supported; and (2) initiated an ongoing process to address DRA's proposals with respect to accessibility and the Medical Baseline Allowance program.

1. The Commission's Decision Adopted The Majority of the Proposals That DRA Supported

Since person with disabilities are disproportionately low income, many of the low income proposals addressed by the Commission were vital for persons with disabilities this winter season. Accordingly DRA supported the following proposals which were adopted in D.05-10-044.

- **CARE Eligibility**

DRA and other consumer groups supported expansion of CARE income eligibility from 175% to 200% of the Federal Poverty Guidelines for seniors and customers with disabilities. DRA noted that raising the income eligibility level would ensure that households with a disabled family member that would still have much larger than average energy costs would not be penalized for an overall higher income level.⁷ Ultimately, the Commission decided not only to raise eligibility for these particular groups but for all customers.⁸

- **CARE Enrollment**

DRA supported (1) the suspension of removal of CARE customers for failure to submit forms during the winter season; (2) the suspension of re-certification and post-enrollment verification; and (3) telephone enrollment, with the proviso that persons with certain disabilities may be unable to take advantage of this effort to increase enrollment.⁹ The Commission decision adopted each of these proposals.¹⁰

⁷ See Comments of Disability Rights Advocates, filed on October 17, 2005, p. 1-2.

⁸ D.05-10-044, p. 10.

⁹ See Reply Comments of Disability Rights Advocates, filed on October 19, 2005, p. 2.

¹⁰ D.05-10-044, p. 11-12.

- **Hold Harmless Policy**

In its initial proposal, the Latino Issues Forum advocated for a “hold harmless” policy for the LIEE program so that “a low-income customer [would not] have to repay the cost of a refrigerator or energy efficient water heater because of an innocent certification mistake.”¹¹ DRA supported this proposal and took it a step further to include CARE. Under DRA’s “hold harmless” proposal, customers erroneously enrolled in the CARE program would not be backbilled for any CARE discount given this winter season. The Commission agreed with DRA’s proposal and noted that “[i]f post-verification results in the conclusion that an ineligible customer erroneously enrolled in CARE, the utility shall not attempt to recover from the customer the CARE discount for any amounts already billed up through April 30, 2006.”¹²

- **Use of Census Data for LIEE Eligibility**

Although it cautioned that census data may not locate persons with disabilities who, in order to find accessible housing, may not live in low-income areas, DRA did ultimately support the use of census data for use in the determination of LIEE eligibility.¹³ In its final decision, the Commission adopted this proposal and directed utilities to use census data to speed up the identification of potential LIEE program participants during the winter months.¹⁴

- **No Shut Off Policy**

DRA, together with other consumer groups, encouraged the Commission to require all the utilities to implement a no-shut off policy for this winter for those

¹¹ Comments of Latino Issues Forum on *En Banc* Hearing and Proposal Regarding Reducing Bill Impacts on Low Income Households Due to High Natural Gas Prices This Winter, p. 3.

¹² D. 05-10-044, p. 11.

¹³ See Reply Comments of Disability Rights Advocates, p. 4.

¹⁴ D.05-10-044, p. 15.

customers who make minimum payments.¹⁵ DRA explained that the policy was particularly important for persons with disabilities who may medically rely on heating and/or electricity and who spend much more time in their homes than their non-disabled counterparts. The Commission subsequently directed that “the utilities shall not shut off service during the winter months to customers that continue to make minimum bill payments.”¹⁶

- **Outreach**

Starting with its Proposal for Changes to the Medical Baseline Allowance program, DRA advocated targeted outreach to persons with disabilities.¹⁷ DRA further proposed greater outreach to persons with disabilities for all low-income programs.¹⁸ In response, the Commission acted to both require greater outreach for the CARE program and for the Medical Baseline Allowance program, specifically including outreach to persons with disabilities.¹⁹

2. **The Commission’s Decision Resulted In Numerous Benefits to Persons With Disabilities.**

- a. ***Direct Impact of the Decision***

The Commission responded to DRA’s proposals that specially address the needs of people with disabilities throughout its decision. First, in discussing telephone enrollment for the CARE program, the decision specifies that telephone services must be accessible.²⁰ This is in direct response to DRA’s Reply Comments which detail the problems with telephone outreach for some persons with disabilities (i.e. the difficulties

¹⁵ See Reply Comments of Disability Rights Advocates, p. 5.

¹⁶ D.05-10-044, p. 27

¹⁷ See Proposal for Changes to the Medical Baseline Allowance, filed on October 11, p. 3.

¹⁸ See Comments of Disability Rights Advocates, p. 5.

¹⁹ D.05-10-044, p. 29-30.

²⁰ *Id.*, p. 11.

posed by Voice Recognition Units and TTY machines in re-certifying customers).²¹

Second, the Commission's decision directed the utilities to include the Medical Baseline Allowance program in their outreach efforts and even more importantly, to "ensure that all outreach materials are accessible for persons with disabilities."²² As part of the implementation of this outreach mandate, DRA has reviewed the bill inserts created by the utilities. Based on DRA's comments on the draft bill inserts, the Public Advisor's Office adopted has a standard font, that is easier for people with reduced vision to read, for all outgoing public documents from the office, and made multiple improvements to specific insert materials such as inclusion of TTY numbers.

b. Additional Impact of the Decision

The Commission dedicated a separate section of its decision to DRA's proposals regarding the Medical Baseline Allowance program.²³ In so doing, the Commission's decision initiated an ongoing process which has resulted in the implementation of changes even beyond DRA's proposals.

Starting with its participation in the *en banc* hearing, DRA has stressed the unique impact of the anticipated natural gas price increase on persons with disabilities. This is because persons with disabilities are heavy users of energy for a variety of reasons which DRA explained. Because of this analysis in DRA's proposal, comments and reply comments, the Commission unambiguously recognized the particular vulnerability of persons with disabilities during the anticipated natural gas price increase.²⁴

²¹ See Reply Comments of Disability Rights Advocates, p. 2-3.

²² D.05-10-044, p. 30.

²³ D.05-10-044, p. 28-30.

²⁴ *Id.*, p. 28.

Although the Commission determined that the Medical Baseline issues were outside the scope of this proceeding, the Commission initiated an ongoing process to adjust program procedures in the short term. This process has burgeoned into a highly productive dialogue between DRA and the utility companies.

To date, DRA and the utilities have exchanged substantial information and held two teleconferences, with another scheduled for early January. Through these teleconferences, the utilities have implemented a number of crucial changes to multiple services and activities:

Medical Baseline Allowance Program

- The utilities have clarified both their policies for providing additional allotments to users of the Medical Baseline Allowance program and their appeals processes.
- All utilities have agreed to contact current users of the Medical Baseline Allowance program, through letters or bill messages, to inform them of the availability of additional allotments.
- All utilities have provided some form of refresher training to their customer service representatives regarding the appeals process for the Medical Baseline Allowance program.

Accessible Communication

- All utilities now provide both the Medical Baseline Allowance application and the CARE application in large print both on their websites and in hardcopy forms that are available to be sent out upon request.

- The TTY services provided by the utilities for customer service calls have been dramatically improved. For instance, PG&E now answers its TTY calls immediately between the hours of 9am and 11pm; previously, TTY callers were required to leave a message and wait for a call back, even in case of emergency.²⁵ SDG&E has implemented a toll-free TTY number, previously there was none.
- TTY numbers are now included on all CARE and Medical Baseline Allowance applications.

Outreach

- At the request of the utility companies during these teleconferences, DRA is preparing an outreach handbook which details issues such as alternate formats, website accessibility and contact information for disability-oriented community based organizations.
- SDG&E and SoCalGas, in consultation with DRA, are drafting a brochure specifically designed for the disabled community.

B. Without Compensation For Its Participation In This Proceeding, DRA Will Experience Significant Financial Hardship.

Participation in this proceeding constitutes a significant financial hardship for DRA. The definition of the term “significant financial hardship” is found in Section 1802(g):

“Significant financial hardship” means either that the customer cannot without undue hardship afford 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 the group or organization is small in comparison to the costs of effective participation in the proceeding.

²⁵ During those hours where TTY calls are not answered immediately, callers are now instructed to use the California Relay Service in case of emergency.

ALJ Weissman noted in his Ruling on Several Notices of Intent to Request Compensation that the economic interest of individual people with disabilities is small when compared to the costs of effective participation in PUC proceedings.²⁶ Without participation by DRA, this group of over 6 million Californians would not otherwise be adequately represented in this proceeding. This population is highly dependent on natural gas for its disability-related heating and electric needs (i.e. life support, charging mobility devices and temperature-controlled environments). Thus, DRA satisfies the definition set forth in § 1802(g).

Additionally, pursuant to D. 98-04-059, Finding of Fact 13, an intervenor must show that it will represent customer interests that would otherwise be underrepresented. Before DRA joined this proceeding, no party specifically represented the interests of disabled customers, a group that will be greatly affected by increased natural gas prices and the sufficiency of low-income assistance programs.²⁷

IV. DRA DID NOT DUPLICATE EFFORTS AND PROVIDED A UNIQUE PERSPECTIVE THAT WAS NECESSARY TO PROTECT PEOPLE WITH DISABILITIES.

DRA's contributions to this portion of the pending proceeding were unique and non-duplicative. While there were numerous intervenors representing consumers who will be affected by increased natural gas prices, each of whom commented on the same issues laid out by Commission, DRA was the only intervenor to represent the needs of people with disabilities and to provide information, which was included in the Commission's final decision, based on its expertise on access issues.

²⁶ Administrative Law Judge's Ruling on Several Notices of Intent to Request Compensation, Dec. 28, 2005, p.5.

²⁷ While the consumer groups that were already parties to this proceeding may have many common interests with DRA, they are not likely to be as focused on the unique needs of people with disabilities, as evidenced by the fact that Commission staff specifically approached DRA regarding participation in the *en banc* hearing taking place on October 6, 2005.

Even where a party's participation overlapped in part with the showings made by other parties, the Commission may award full compensation.²⁸ In the limited circumstances where DRA's comments could have been duplicative, DRA coordinated its efforts with other consumer groups, such as the Office of Ratepayers Advocates and The Utility Reform Network, to limit any potential duplication. Moreover, when DRA commented on barriers that were of concern to multiple consumer groups, DRA provided a unique perspective on the intersection of these consumers' interests. For instance, in supporting proposals such as telephone enrollment for CARE, DRA cautioned that this enrollment method may be problematic for persons with hearing impairments. In light of the foregoing, DRA's compensation should not be reduced based on unnecessary duplication.

V. DRA'S REQUESTED COMPENSATION FOR ADVOCATES' FEES IS REASONABLE

The total amount of compensation being requested by DRA for its substantial contribution to this proceeding is reasonable and within the estimates set forth in its NOI.²⁹ DRA undertook its participation in an efficient, non-duplicative and productive manner, and used minimal staffing throughout the proceeding. Moreover, DRA's proposed hourly rates are reasonable and are within the limits prescribed by the Commission in D.05-11-031, authorizing for intervenor attorneys and experts the acceptable range of 2005 hourly rates.³⁰ DRA's rates have also been approved by federal and state courts, as well as through previous fee awards by this Commission.

²⁸ § 1802.5.

²⁹ DRA estimated a total projected budget of approximately \$38,775. See Notice of Intent to Seek Compensation, Oct 7, 2005, p. 4.

³⁰ To the extent that any of DRA's general rates used in litigation are not in keeping with the ranges set by D.05-11-031, DRA has adjusted its request to bring them in line. DRA's requested rates and supporting information are set forth in detail below.

DRA is requesting compensation in the total amount of \$34,247.50 for the time DRA reasonably devoted to the portion of this proceeding focused on the protections for the 2005-2006 winter heating season. *See* Exhibit A for totals; *see also* Exhibits B and C, for DRA’s detailed fee records. DRA was invited to participate in the October 6, 2005 *en banc* hearing on September 21, 2005. After preparing for the hearing, DRA promptly filed its Motion to Intervene and its Notice of Intent to Claim Compensation on the day after the *en banc* hearing. Therefore, DRA is seeking compensation for the time it devoted from September 21, 2005 (the day it was first contacted by the Commission’s Public Advisor’s Office regarding this proceeding) to present. *See* Exhibit A.

A. The Number of Hours DRA Devoted to this Proceeding is Reasonable Because the Hours Were Undertaken in a Productive and Efficient Manner.

Full compensation is appropriate since DRA’s substantial contributions to the proceeding were undertaken in a productive and efficient manner. DRA used minimal staffing throughout the course of this phase of the proceeding. The proceeding was staffed by only one supervising attorney and one junior attorney, with assistance from law clerks. As is evident from the chart below, the majority of lawyer time spent on this proceeding was billed by a lower billing attorney, Mary-Lee Kimber. Following is a summary table and explanation of hours claimed and hourly rates.

ATTORNEY/STAFF	HOURS	RATE
Melissa Kasnitz	28.10	\$425
Mary-Lee Kimber	95.30	\$170
Paralegals & Law Clerks	39.70	\$90

The hours claimed are approximately the same as the estimates which DRA submitted in its NOI.³¹ Specifically, in its NOI, DRA estimated that Mary-Lee Kimber

³¹ See Notice of Intent to Claim Compensation, October 7, 2005, p. 5 -6

would devote roughly 100 hours of time, Melissa Kaznitz would devote roughly 35 hours of time and law clerks would devote 35 hours of time to this proceeding.³²

B. DRA's Proposed Allocation of Time is Reasonable.

Because DRA's participation focused on the impact of the anticipated natural gas price increase for a single community, it is not meaningful to try to allocate time by issue. All of DRA's time was spent on general preparation work that would be required of any active participant in a proceeding (such as preparation of filings and the reviewing other parties' filings) or on addressing the needs of people with disabilities. DRA seeks full compensation for all this time.

DRA also seeks compensation at half the usual hourly rate for the hours devoted to the preparation of DRA's Notice of Intent to Intervene, Notice of Intent to Seek Compensation and this Request for Award of Intervenor Compensation. *See* Exhibits D and E attached hereto. This reduction is consistent with the Commission's practice.

C. DRA's Hourly Rates Are Reasonable.

The hourly rates DRA seeks for its attorneys, paralegals and law clerks are reasonable and should be approved by the Commission. DRA is seeking rates that are consistent with the Commission's authorized 2005 hourly rates for intervenor attorneys detailed in D.05-11-031, as well as market rates charged by other attorneys, paralegals and law clerks with the same level of experience and skill. Therefore, DRA requests compensation for its substantial contribution to decision D.05-11-029 at the hourly rates discussed below.³³

DRA's requested hourly rates are within the rate ranges approved by the Commission in D.05-11-031 based on years' experience as practicing attorneys since completion of law school. Generally, DRA sets its rates for litigation in a manner

³² See *Id.* Also note that DRA has adjusted its requested hourly rates from those set forth in its NOI based on D.05-11-031.

³³ While a few hours are billed in Calendar Year 2006 for work performed on this fee application, DRA is using its 2005 rates exclusively.

consistent with rates charged by attorneys and law clerks of comparable experience and skill in the San Francisco Bay Area. Attached as Exhibit E hereto is a declaration from Richard Pearl, who is an acknowledged expert on attorney rates in California in general, and the Bay Area specifically.³⁴ This declaration provides information regarding litigation rates charged by attorneys and law clerks in the Bay Area and Los Angeles. Because some of these litigation rates exceed the ranges set by the Commission, DRA has adjusted its rates for work performed before the Commission.

1. Managing Attorney's Hourly Rates

Melissa Kasnitz graduated from Yale University in 1989 and from Boalt Hall School of Law at U.C. Berkeley in 1992. She joined DRA in 1997, after previous work for government and public policy organizations. Ms. Kasnitz became DRA's managing attorney in 2004. During her time at DRA, Ms. Kasnitz has gained substantial expertise on the access needs of people with disabilities, including issues concerning accessible communication by service providers with people with disabilities. Ms. Kasnitz has litigated extensively in the area of disability rights, and has also participated in educational efforts, advocacy, and outreach to the disability community.

In effectuating its mission to protect and advance the rights of people with disabilities, DRA has sought to address barriers in virtually all areas of society. DRA has provided resources to centralize information on the condition of people with disabilities in society, publishing *Disability Watch* and *Disability Watch Vol. 2* in 1997 and 2001, respectively, and DRA routinely works with other organizations that focus on the needs of this community. Through its litigation and advocacy efforts, DRA has engaged in substantial work to assist low income people with disabilities (a group which constitutes

³⁴ This declaration was filed in a contested motion for attorneys' fees filed previously by DRA. It provides useful information on the range of attorneys' fees in California, and more specifically the San Francisco Bay Area. Case-specific exhibits have been excluded.

a disproportionate segment of the disability population) by ensuring access to public services and benefits. DRA litigates on access issues ranging from accessible public rights of way, accessible medical care, and accessible public transportation to accessible technology, and educational issues affecting children with disabilities. DRA is recognized nationally as a leader on issues concerning accessibility. Ms. Kasnitz, as managing attorney, is involved in each of these areas.

DRA first participated in work before the Commission in 2001, joining in “Order Instituting Rulemaking on the Commission's Own Motion to Determine Whether Baseline Allowances for Residential Usage of Gas and Electricity Should Be Revised” (R.01-05-047) to protect the interests of people with disabilities during the electricity crisis then facing California. In that proceeding, DRA proposed, and the Commission adopted, a number of changes to the Medical Baseline Allowance program. Following this proceeding, DRA recognized the importance of the work of the Commission in impacting the lives of people with disabilities as consumers of utility services, including their needs as low income consumers as well as their specialized needs for access.

While Ms. Kasnitz did not work on R.01-05-047, she and other members of DRA’s leadership decided, based on this experience, to seek opportunities to bring DRA’s expertise on access issues to additional proceedings before the Commission. DRA conceived of launching a structured project of participation before the Commission, to be headed by Ms. Kasnitz, in 2003. Some work was initiated in early 2004, and in mid-2004, (when Ms. Kasnitz returned to DRA from maternity leave), the more structured project was initiated, bringing DRA before the Commission to advance recognition of the needs of its constituency. This project is ongoing and continues to be

managed by Ms. Kasnitz. Currently DRA is a party in eight proceedings, and has worked to raise awareness of disability needs and concerns for all utilities and the Commission itself as they communicate with customers, provide services and review policies. As part of this project, Ms. Kasnitz served as the supervising attorney for work in this proceeding.

Ms. Kasnitz is seeking compensation for work performed in 2005 at a rate of \$425 per hour, which is within the range authorized by the Commission in D.05-11-031 for attorneys with 13+ years of experience, and which is also consistent with her litigation rates.³⁵ This rate is appropriate for work before the Commission because of DRA's focus on and specialized knowledge concerning issues relating exclusively to the needs of people with disabilities,³⁶ which were otherwise unaddressed by consumer groups. Ms. Kasnitz's background and experience regarding such issues concerning accessibility, while gained in arenas separate from practice before the Commission, provide appropriate support for her requested rate.

2. Fellows' Hourly Rates

Mary-Lee Kimber is a graduate of The University of Chicago, Stanford University and Boalt Hall School of Law at UC Berkeley in 2005. During law school, Ms. Kimber clerked at both Protection and Advocacy, Inc and Disability Rights Advocates, developing a strong background in disability law. After graduation, Ms. Kimber joined DRA as a Disability Rights Advocates Fellow. During her time at DRA, she has worked on a variety of disability accessibility issues, including architectural and

³⁵ In fact, this rate is below market for litigation rates for attorneys of Ms. Kasnitz's skill and experience. See Pearlman Decl. pp. 8-20, Exhibit E.

³⁶ For instance, in this proceeding, DRA offered no opinions on the debate surrounding furnace replacement, raised by Reliable Energy Management; *see* The Joint Comments of Reliable Energy Management, Inc. LA Works and Avalon-Carver Community Center, Inc. on Parties' Proposals For the Commission's Low Income Rulemaking Response to Expected High Gas Prices, submitted on October 17, 2005.

programmatic accessibility of public entities and issues of discrimination based on mental disability. Her requested 2005 hourly rate of \$170 is reasonable for an attorney of her experience and skill and within the range of rates approved by the Commission in D.05-11-031. DRA's general litigation rate for new fellows is \$190.³⁷ To keep within the Commission's set range, DRA has reduced this rate for this proceeding.

3. DRA's Law Clerk And Paralegal Hourly Rates Have Been Previously Established By The Commission

The Commission decision on intervenor's rates is silent on compensation for paralegals and law clerks. However, in a Request for Compensation in 2003, the Commission made a substantial adjustment to DRA's litigation rates for law clerks and paralegals, notwithstanding prior approval of such rates from various courts. DRA has reduced its usual rates sought for law clerks in this proceeding based on the decision issued by the Commission in D.03-01-075 and is requesting a rate of \$90 for work conducted in 2005.

As a non-profit organization with limited staff, DRA makes extensive use of law clerks and paralegals to assist in all tasks. Throughout the course of this proceeding, DRA relied on its clerks to assist its attorneys in drafting, organizing and indexing documents; conducting research and community outreach; filing documents; and providing other support for DRA's participation in this proceeding. DRA's legal support personnel were routinely billed for litigation work at an hourly rate of \$135 during 2004

³⁷ This rate is also well within the range of rates charged by other California firms for attorneys who, like Ms. Kimber, have up to one year of experience. For example, Cooley Godward, LLP billed a 2003 litigation rate of \$215 per hour for an attorney with one year experience. *See* Pearl Declaration at 12-13, Exhibit E. This example of the 2003 rate is significantly higher than what DRA is billing for Ms. Kimber for litigation work even though it was a rate for two years prior, and the rates requested for work before the Commission are lower still.

and \$140 during 2005, both of which are reasonable rates in the Bay Area market.³⁸

However, in light of the Commission's reduction of DRA's regularly charged rate for paralegals in 2003, DRA is seeking the reduced rate of \$90 for work conducted in 2005.

This represents a modest increase over the rate of \$85, awarded in 2003.³⁹

VI. DRA'S REQUEST FOR COMPENSATION OF COSTS IS REASONABLE

DRA incurred reasonable expenses of \$1,018.44, as detailed in the following summary table.

Photocopying	\$ 864.50
Postage & Delivery	\$ 96.79
Telephone & Fax	\$ 5.49
Travel⁴⁰	\$ 234.00
Total	\$1,201.18

These charges cover the cost of DRA's photocopying, postage, telephone/fax and travel expenses. See Exhibit D. DRA inadvertently omitted an estimate for reasonable costs in its Notice of Intent to Claim Compensation, filed on October 7, 2005. However, even with these modest costs, DRA's total request for compensation is less than estimated in its Notice of Intent to Claim Compensation.

³⁸ For example, in *Millar v. San Francisco Bay Area Rapid Transit Dist.*, Alameda County Superior Court No. 830013-9, paralegals were awarded rates of \$160 per hour. See Pearl Declaration at 6, attached as Exhibit E. Moreover, the Northern District of California found DRA's 2004 paralegal and/or law clerk rates reasonable. *Gustafson, et al. v. University of California at Berkeley*, N.D. Cal. No. C-97-4016 BZ (Order Granting Final Approval of Class Action Settlement Agreement, filed March 23, 2005); see also Pearl Declaration at 5, attached as Exhibit E.

³⁹ See D. 03-01-075, p. 14.

⁴⁰ Travel expenses stem from DRA's participation in the *en banc* hearing which required Ms. Kimber to fly to Los Angeles from the San Francisco Bay Area.

VII. CONCLUSION

DRA has satisfied all the requirements of § 1801 *et seq.* DRA has met the requirements of timely filing this Request for Compensation; achieving intervenor status; and demonstrating financial hardship. DRA made a substantial contribution to D.05-11-029 in a productive, non-duplicative, and efficient manner. DRA has provided a detailed itemization of its participation and has demonstrated the reasonableness of the requested hourly rates and costs. Therefore, DRA is entitled and respectfully requests the Commission to grant intervenor compensation for both its hourly fees and costs in the amount of \$35,448.68.

Respectfully submitted,

Signed: January 5, 2006

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CERTIFICATE OF SERVICE

I certify that I have, by electronic mail to the parties to which an electronic mail address has been provided, served a true copy of the following on all known parties to R04-01-006.

REQUEST FOR AWARD OF INTERVENOR COMPENSATION

SUMMARY SHEET

TIME SHEETS

EXPENSES

**DECLARATION OF RICHARD M. PEARL IN SUPPORT OF PLAINTIFF'S
MOTION FOR ATTORNEY'S FEE AND COSTS**

Dated January 5, 2006, at Berkeley, California.

/s/ Jenny Tsai
Jenny Tsai

CALIFORNIA PUBLIC UTILITIES COMMISSION

Service Lists

Proceeding: R0401006 - PUC - LOW-INCOME PRO

Filer: CPUC

List Name: LIST

Last changed: January 3, 2006

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EXHIBIT A

SUMMARY SHEET

Merits Work

Advocate	Rate	Hours	Total
Melissa Kasnitz	\$425	28.10	\$11,942.50
Mary-Lee Kimber	\$170	95.30	\$16,201.00
Law Clerks	\$90	39.70	\$3,573.00
Total		163.10	\$31,716.50

Fees Work

Advocate	Rate	Hours	Total
Melissa Kasnitz	\$425	3.60	\$1530.00
Mary-Lee Kimber	\$170	20.30	\$3451.00
Law Clerks	\$90	0.9	\$81.00
Total		24.80	\$5062.00
Requested at 50%			
Reduced Total			\$2531.00

Costs

Photocopying	\$ 864.50
Postage & Delivery	\$ 96.79
Telephone & Fax	\$ 5.49
Travel	\$ 234.00
Total	\$1,201.18

Total Compensation Requested: \$35,448.68

EXHIBIT B

1/3/2006
3:43 PM

Disability Rights Advocates
Chronological Detail

Slip ID	Dates and Time	Attorney Activity	Case	Units	Rate	Slip Value
Description	Assc./Clerk					
<u>Attorney: Law Clerk</u>						
130864	TIME 9/26/2005 WIP	Law Clerk FactInvest PUC.LowInc SC		0.50	90.00	45.00
Provide information to Melissa Kasnitz re: outreach to invite people with disabilities to public hearing						
130865	TIME 9/29/2005 WIP	Law Clerk FactInvest PUC.LowInc SC		0.60	90.00	54.00
Telephone calls to disability organizations re: hearing						
130866	TIME 9/29/2005 WIP	Law Clerk FactInvest PUC.LowInc SC		0.40	90.00	36.00
Telephone call with M. Bradshaw and Mary-Lee Kimber						
130867	TIME 9/29/2005 WIP	Law Clerk FactInvest PUC.LowInc SC		2.70	90.00	243.00
Telephone calls to numerous disability organizations re: hearing						
131186	TIME 9/29/2005 WIP	Law Clerk CaseMgt PUC.LowInc SC		0.40	90.00	36.00
Meeting with Mary-Lee Kimber re: outreach for 10/6 hearing						
130868	TIME 9/30/2005 WIP	Law Clerk FactInvest PUC.LowInc SC		0.20	90.00	18.00
Telephone call to Community Resources for Independence re: hearing						
130869	TIME 9/30/2005 WIP	Law Clerk FactInvest PUC.LowInc SC		0.30	90.00	27.00
Teleconference to CALIF re: hearing						
130870	TIME 10/3/2005 WIP	Law Clerk FactInvest PUC.LowInc SC		0.40	90.00	36.00
Strategy meeting with Mary-Lee Kimber re: outreach for hearing						
130871	TIME 10/4/2005 WIP	Law Clerk FactInvest PUC.LowInc SC		0.20	90.00	18.00

1/3/2006
3:43 PM

Disability Rights Advocates
Chronological Detail

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Slip ID	Dates and Time	Status	Description	Attorney Activity Case Assoc./Clerk	Units	Rate	Slip Value
			Meeting with Mary-Lee Kimber re: status of outreach proceedings				
130872	TIME		10/11/2005 WIP	Law Clerk FactInvest PUC.LowInc SC	0.30	90.00	27.00
			Meeting with Melissa Kasnitz re: outreach to community organizations				
130817	TIME		10/14/2005 WIP	Law Clerk Investigate PUC.LowInc JT	1.00	90.00	90.00
			Investigate the availability of the medical baseline information in various companies' websites				
130818	TIME		10/17/2005 WIP	Law Clerk Briefs PUC.LowInc JT	2.00	90.00	180.00
			Prepare for filing (Comments of DRA); service electronic copies to parties on the service list				
130819	TIME		10/17/2005 WIP	Law Clerk Investigate PUC.LowInc JT	1.50	90.00	135.00
			Investigate the availability of the medical baseline information in various companies				
130820	TIME		10/18/2005 WIP	Law Clerk Investigate PUC.LowInc JT	1.00	90.00	90.00
			Investigate the quality of the TTY service of utility companies				
130821	TIME		10/19/2005 WIP	Law Clerk Investigate PUC.LowInc JT	0.10	90.00	9.00
			Investigate the quality of the TTY service of utility companies				
130822	TIME		10/19/2005 WIP	Law Clerk RecordsObtain PUC.LowInc JT	0.10	90.00	9.00
			Obtain data response from Sempra				
130823	TIME		10/19/2005 WIP	Law Clerk Briefs PUC.LowInc JT	0.90	90.00	81.00
			Prepare for filing (reply comments of DRA) and serve to parties involved in the proceeding				

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Slip ID	Dates and Time	Attorney Activity	Case	Units	Rate	Slip Value
Description		Assoc./Clerk				
130836	TIME	Law Clerk	M&C	1.50	90.00	135.00
10/24/2005			PUC.LowInc			
WIP		JT				
Teleconference with utilities companies, Melissa Kasnitz; separate teleconference with Mary-Lee Kimber and ALJ						
130874	TIME	Law Clerk	FactInvest	0.30	90.00	27.00
10/24/2005			PUC.LowInc			
WIP		SC				
Meeting with Mary-Lee Kimber re: outreach for utilities						
131372	TIME	Law Clerk	FactInvest	0.30	90.00	27.00
10/24/2005			PUC.LowInc			
WIP		SC				
Numerous outreach calls/emails to disability community members						
130837	TIME	Law Clerk	ClientComm	0.80	90.00	72.00
10/25/2005			PUC.LowInc			
WIP		JT				
Compile a list of contacts from 10/24 Low Income teleconference participants						
130838	TIME	Law Clerk	LegalResearch	1.40	90.00	126.00
10/25/2005			PUC.LowInc			
WIP		JT				
Investigate online information available for medical baseline and care programs in utilities companies						
130873	TIME	Law Clerk	FactInvest	0.20	90.00	18.00
10/25/2005			PUC.LowInc			
WIP		SC				
Outreach calls/email to disability community members re: natural gas increase issue						
130839	TIME	Law Clerk	Briefs	0.80	90.00	72.00
10/26/2005			PUC.LowInc			
WIP		JT				
Prepare and serve copies of DRA's comments to be filed to the PUC						
130840	TIME	Law Clerk	LegalResearch	1.00	90.00	90.00
10/27/2005			PUC.LowInc			
WIP		JT				
Prepare guidelines for making large print documents (re: 10/24 teleconference)						
130502	TIME	Law Clerk	CaseMgt	3.50	90.00	315.00
11/10/2005			PUC.LowInc			
WIP						

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Slip ID	Dates and Time	Status	Description	Attorney Activity Case	Units	Rate	Slip Value
				Assc./Clerk SC			
			Prepare outreach guide for utilities re: people with disabilities				
131441	TIME			Law Clerk CaseMgt PUC.LowInc SC	4.50	90.00	405.00
	11/11/2005	WIP	Guide for outreach to people with disabilities for utilities				
131442	TIME			Law Clerk CaseMgt PUC.LowInc SC	3.00	90.00	270.00
	11/15/2005	WIP	Guide for outreach to people with disabilities for utilities				
131443	TIME			Law Clerk CaseMgt PUC.LowInc SC	3.00	90.00	270.00
	11/16/2005	WIP	Guide for outreach to people with disabilities for utilities				
130772	TIME			Law Clerk CaseMgt PUC.LowInc CL	0.40	90.00	36.00
	12/7/2005	WIP	Review/edit document on Website Accessibility for Mary-Lee Kimber and Stefanie Cox				
131683	TIME			Law Clerk LegalResearch PUC.LowInc SC	2.00	90.00	180.00
	1/2/2006	WIP	Read, review, edit report: Effective Communication				
131796	TIME			Law Clerk CaseMgt PUC.LowInc JT	0.40	90.00	36.00
	1/2/2006	WIP	Review rules re: filing requests for compensations and page limits				
131684	TIME			Law Clerk LegalResearch PUC.LowInc SC	4.00	90.00	360.00
	1/3/2006	WIP	Read, review, edit report: Effective Communication				
Total: Law Clerk				Billable	39.70		3573.00
				Unbillable	0.00		0.00
				Total	39.70		3573.00

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Slip ID	Dates and Time	Status	Description	Attorney Activity Case Assc./Clerk	Units	Rate	Slip Value
<u>Attorney: Mary-Lee</u>							
127857	TIME		9/21/2005 WIP	Mary-Lee FactInvest PUC.LowInc	2.60	170.00	442.00
Prepare research for testimony at 10/6 hearing							
130879	TIME		9/21/2005 WIP	Mary-Lee CaseMgt PUC.LowInc	0.30	170.00	51.00
Conference with Melissa Kasnitz re: 10/6 hearing and information to present disability perspective re: same							
127858	TIME		9/22/2005 WIP	Mary-Lee FactInvest PUC.LowInc	0.70	170.00	119.00
Prepare research for testimony at 10/6 hearing							
128168	TIME		9/26/2005 WIP	Mary-Lee CaseMgt PUC.LowInc	0.60	170.00	102.00
Teleconference with Linda Serazawa re: anticipated agenda and format for public hearing							
128169	TIME		9/26/2005 WIP	Mary-Lee FactInvest PUC.LowInc	2.20	170.00	374.00
Receive and review previous decisions from the proceeding relating to 10/6 hearing							
128178	TIME		9/27/2005 WIP	Mary-Lee FactInvest PUC.LowInc	0.20	170.00	34.00
Meeting with Melissa Kasnitz re: preparation for hearing							
128180	TIME		9/28/2005 WIP	Mary-Lee FactInvest PUC.LowInc	1.20	170.00	204.00
Prepare outline of testimony for 10/6 hearing							
128184	TIME		9/29/2005 WIP	Mary-Lee FactInvest PUC.LowInc	0.40	170.00	68.00
Meeting with Stefanie Cox re: outreach for 10/6 hearing							
128185	TIME		9/29/2005 WIP	Mary-Lee FactInvest PUC.LowInc	1.20	170.00	204.00
Factual research re: natural gas pricing as relates to medical baseline							

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Slip ID	Dates and Time	Attorney Activity	Case	Units	Rate	Slip Value
Description		Assoc./Clerk				
128186	TIME	Mary-Lee		0.40	170.00	68.00
9/29/2005		FactInvest				
WIP		PUC.LowInc				
Teleconference with Stefanie Cox and Michael Bradshaw re: impact of gas increase on people with disabilities						
128187	TIME	Mary-Lee		1.80	170.00	306.00
9/29/2005		Pldngs/CaseM				
WIP		PUC.LowInc				
Prepare testimony for 10/6 hearing						
128188	TIME	Mary-Lee		0.70	170.00	119.00
9/29/2005		FactInvest				
WIP		PUC.LowInc				
Telephone calls to various ILCs - leave messages re: publicizing hearing and input for testimony						
128351	TIME	Mary-Lee		3.60	170.00	612.00
10/3/2005		LawMotion				
WIP		PUC.LowInc				
Prepare/practice testimony for 10/6 hearing						
128352	TIME	Mary-Lee		0.60	170.00	102.00
10/3/2005		LawMotion				
WIP		PUC.LowInc				
Meeting with Melissa Kasnitz re: testimony						
131187	TIME	Mary-Lee		0.40	170.00	68.00
10/3/2005		CaseMgt				
WIP		PUC.LowInc				
Meeting with Stefanie Cox re: outreach for hearing						
128357	TIME	Mary-Lee		0.60	170.00	102.00
10/4/2005		LawMotion				
WIP		PUC.LowInc				
Email to Melissa Kasnitz, Haley at TURN, CIL director re: 10/6 hearing						
128754	TIME	Mary-Lee		0.50	170.00	85.00
10/4/2005		CaseMgt				
WIP		PUC.LowInc				
Teleconference with Melissa Kasnitz re: preparation for hearing						
131188	TIME	Mary-Lee		0.20	170.00	34.00
10/4/2005		CaseMgt				
WIP		PUC.LowInc				
Meeting with Stefanie Cox re: outreach for proceeding						

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Slip ID	Dates and Time	Status	Description	Attorney Activity Case	Asoc./Clerk	Units	Rate	Slip Value
128361	10/5/2005	TIME	WIP	Mary-Lee LawMotion PUC.LowInc		2.30	170.00	391.00
Prepare handout for PUC hearing 10/6								
128362	10/5/2005	TIME	WIP	Mary-Lee LawMotion PUC.LowInc		2.90	170.00	493.00
Practice and edit testimony for PUC hearing								
128363	10/6/2005	TIME	WIP	Mary-Lee LawMotion PUC.LowInc		4.50	170.00	765.00
Attend PUC hearing								
128364	10/7/2005	TIME	WIP	Mary-Lee LawMotion PUC.LowInc		0.50	170.00	85.00
Meeting with Melissa Kasnitz re: review of en banc hearing and next steps								
128543	10/11/2005	TIME	WIP	Mary-Lee FactInvest PUC.LowInc		0.10	170.00	17.00
Teleconference with Western Law Center re: outreach re: gas prices								
128544	10/11/2005	TIME	WIP	Mary-Lee Pldngs/CaseM PUC.LowInc		0.40	170.00	68.00
Meeting with Melissa Kasnitz and Hayley at TURN re: submission of comments to Commission re: natural gas price increase								
128545	10/11/2005	TIME	WIP	Mary-Lee Pldngs/CaseM PUC.LowInc		2.20	170.00	374.00
Prepare proposal re: medical baseline allowance for submission to Commission								
128550	10/12/2005	TIME	WIP	Mary-Lee Pldngs/CaseM PUC.LowInc		2.90	170.00	493.00
Prepare comments on Utilities Proposals								
128551	10/13/2005	TIME	WIP	Mary-Lee Pldngs/CaseM PUC.LowInc		4.80	170.00	816.00
Prepare comments on Utilities Proposals								

Slip ID	Dates and Time	Attorney Activity	Case	Units	Rate	Slip Value
Description		Assoc./Clerk				
128555	TIME 10/14/2005 WIP	Mary-Lee	Pldngs/CaseM PUC.LowInc	0.80	170.00	136.00
Revise comments per Melissa Kasnitz instructions; conference with Melissa Kasnitz re: same						
128556	TIME 10/14/2005 WIP	Mary-Lee	FactInvest PUC.LowInc	0.60	170.00	102.00
Locate compliance advice letters from utilities re: medical baseline						
128979	TIME 10/17/2005 WIP	Mary-Lee	Pldngs/CaseM PUC.LowInc	2.30	170.00	391.00
Prepare and revise comments; conference with Melissa Kasnitz re: same						
128980	TIME 10/17/2005 WIP	Mary-Lee	CaseMgt PUC.LowInc	0.20	170.00	34.00
Teleconference with PG&E re: service list						
130023	TIME 10/17/2005 WIP	Mary-Lee	CaseMgt PUC.LowInc	0.20	170.00	34.00
Conference with Melissa Kasnitz re: preparation of reply comments						
128982	TIME 10/18/2005 WIP	Mary-Lee	Pldngs/CaseM PUC.LowInc	1.80	170.00	306.00
Receive and review comments of other parties; email exchange with Melissa Kasnitz re: same						
128983	TIME 10/18/2005 WIP	Mary-Lee	Pldngs/CaseM PUC.LowInc	5.10	170.00	867.00
Prepare reply comments						
128984	TIME 10/19/2005 WIP	Mary-Lee	Pldngs/CaseM PUC.LowInc	2.30	170.00	391.00
Prepare reply comments; conference with Melissa Kasnitz re: same						
128986	TIME 10/19/2005 WIP	Mary-Lee	Pldngs/CaseM PUC.LowInc	1.10	170.00	187.00

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Slip ID	Dates and Time	Attorney Activity	Case	Units	Rate	Slip Value
Description		Assoc./Clerk				
Prepare for workshop						
128987	TIME	Mary-Lee		6.50	170.00	1105.00
10/20/2005		Pldngs/CaseM				
WIP		PUC.LowInc				
Prepare for and attend workshop; conference with Melissa Kasnitz re: same						
128989	TIME	Mary-Lee		0.30	170.00	51.00
10/21/2005		CaseMgt				
WIP		PUC.LowInc				
Telephone call with Hayley at TURN re: workshop						
129727	TIME	Mary-Lee		0.30	170.00	51.00
10/21/2005		CaseMgt				
WIP		PUC.LowInc				
Conference with Melissa Kasnitz re: workshop and plan for call with utilities						
130875	TIME	Mary-Lee		0.40	170.00	68.00
10/21/2005		CaseMgt				
WIP		PUC.LowInc				
Prepare proposed agenda for utility teleconference						
130876	TIME	Mary-Lee		0.20	170.00	34.00
10/21/2005		CaseMgt				
WIP		PUC.LowInc				
Conference with Melissa Kasnitz re: proposed agenda and revisions to same						
128991	TIME	Mary-Lee		0.60	170.00	102.00
10/24/2005		Pldngs/CaseM				
WIP		PUC.LowInc				
Prepare for teleconference with utilities re: medical baseline and accessibility						
128992	TIME	Mary-Lee		1.50	170.00	255.00
10/24/2005		Pldngs/CaseM				
WIP		PUC.LowInc				
Teleconference with utilities, Melissa Kasnitz and Jenny Tsai re: medical baseline and accessibility; follow up call with ALJ re: same						
128994	TIME	Mary-Lee		1.70	170.00	289.00
10/24/2005		Pldngs/CaseM				
WIP		PUC.LowInc				
Prepare summary of teleconference for ALJ						

Slip ID	Dates and Time	Attorney Activity	Case	Units	Rate	Slip Value
Description		Assoc./Clerk				
128997	TIME 10/24/2005 WIP	Mary-Lee FactInvest PUC.LowInc		0.30	170.00	51.00
Meeting with Stefanie Cox re: outreach for utilities						
129001	TIME 10/25/2005 WIP	Mary-Lee FactInvest PUC.LowInc		0.70	170.00	119.00
Teleconference with Joseph Leonard and Melissa Kasnitz re: procedure for addressing accessibility issues						
129002	TIME 10/25/2005 WIP	Mary-Lee FactInvest PUC.LowInc		0.20	170.00	34.00
Finalize letter to ALJ re: teleconference with utilities						
129006	TIME 10/26/2005 WIP	Mary-Lee Pldnngs/CaseM PUC.LowInc		0.60	170.00	102.00
Review comments re: ALJ decision						
129007	TIME 10/27/2005 WIP	Mary-Lee Pldnngs/CaseM PUC.LowInc		0.60	170.00	102.00
Receive and review ALJ revised draft decision						
129776	TIME 10/31/2005 WIP	Mary-Lee CaseMgt PUC.LowInc		0.80	170.00	136.00
Draft/revise/send emails re: 2d teleconference with utilites						
129777	TIME 10/31/2005 WIP	Mary-Lee CaseMgt PUC.LowInc		1.20	170.00	204.00
Draft/revise/send emails to public advisor re: readability of bill insert						
129785	TIME 11/4/2005 WIP	Mary-Lee CaseMgt PUC.LowInc		0.20	170.00	34.00
Email SWGas re: 2d teleconference						
129788	TIME 11/7/2005 WIP	Mary-Lee Pldnngs/CaseM PUC.LowInc		1.10	170.00	187.00
Receive and review advice letters from the utilities						

Slip ID	Dates and Time	Attorney Activity	Case	Units	Rate	Slip Value
Description		Assoc./Clerk				
129798	TIME	Mary-Lee		0.20	170.00	34.00
11/8/2005		CaseMgt				
WIP		PUC.LowInc				
Telephone call with Harriet Burt re: accessibility information on billing inserts						
129800	TIME	Mary-Lee		0.30	170.00	51.00
11/8/2005		CaseMgt				
WIP		PUC.LowInc				
Prepare and send email re: 2d teleconference with utilities re: medical baseline and accessibility issues; update Melissa Kasnitz re: same						
129801	TIME	Mary-Lee		0.20	170.00	34.00
11/8/2005		CaseMgt				
WIP		PUC.LowInc				
Conference with Melissa Kasnitz re: preparation for outreach call						
129802	TIME	Mary-Lee		0.90	170.00	153.00
11/9/2005		CaseMgt				
WIP		PUC.LowInc				
Teleconference with utilities re: energy education; conference with Melissa Kasnitz re: same and follow up						
129803	TIME	Mary-Lee		0.30	170.00	51.00
11/9/2005		CaseMgt				
WIP		PUC.LowInc				
Teleconference with Harriet Burt re: input into Standardization Team's evaluation of energy education; workshops; update to Melissa Kasnitz re: same						
129812	TIME	Mary-Lee		0.30	170.00	51.00
11/10/2005		CaseMgt				
WIP		PUC.LowInc				
Teleconference with Hayley Goodson at TURN re: advice letter and backbilling issue						
129813	TIME	Mary-Lee		0.50	170.00	85.00
11/10/2005		PIDngs/CaseM				
WIP		PUC.LowInc				
Identify problems in advice letter and email them to Hayley Goodson						
129814	TIME	Mary-Lee		0.20	170.00	34.00
11/10/2005		CaseMgt				
WIP		PUC.LowInc				
Teleconference with John Fasana at SCE re: DRA's requested information						

Slip ID	Dates and Time	Attorney Activity	Units	Rate	Slip Value
Status	Description	Case Assc./Clerk			
129815	TIME 11/10/2005 WIP	Mary-Lee CaseMgt PUC.LowInc	0.30	170.00	51.00
	Prepare email list for utility participants in teleconference				
130457	TIME 11/10/2005 WIP	Mary-Lee CaseMgt PUC.LowInc	0.20	170.00	34.00
	Update Melissa Kasnitz on status of utility responses on medical baseline				
129820	TIME 11/11/2005 WIP	Mary-Lee CaseMgt PUC.LowInc	1.90	170.00	323.00
	Prepare and send email to utilities re: information requested				
129822	TIME 11/11/2005 WIP	Mary-Lee CaseMgt PUC.LowInc	2.30	170.00	391.00
	Prepare write-up on programs for outreach for utility outreach packets; factual research into disease groups				
130465	TIME 11/15/2005 WIP	Mary-Lee CaseMgt PUC.LowInc	0.20	170.00	34.00
	Conference with Melissa Kasnitz re: SCE Bill insert				
131191	TIME 11/17/2005 WIP	Mary-Lee CaseMgt PUC.LowInc	2.10	170.00	357.00
	Letter to Alan Woo/LIOB re: advice letters and concern re: backbilling				
131192	TIME 11/18/2005 WIP	Mary-Lee CaseMgt PUC.LowInc	1.00	170.00	170.00
	Attend teleconference with utilities re: outreach and accessibility				
130672	TIME 11/21/2005 WIP	Mary-Lee CaseMgt PUC.LowInc	0.60	170.00	102.00
	Revise and email summary of teleconference to utilities				
130673	TIME 11/21/2005 WIP	Mary-Lee CaseMgt PUC.LowInc	0.70	170.00	119.00
	Prepare list of information utilities will provide to DRA				

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Slip ID	Dates and Time	Status	Description	Attorney Activity Case Assc./Clerk	Units	Rate	Slip Value
130675	TIME		11/23/2005 WIP	Mary-Lee Pldnngs/CaseM PUC.LowInc	1.10	170.00	187.00
Finalize letter to Alan Woo re: advice letters and backbilling issue							
130676	TIME		11/23/2005 WIP	Mary-Lee CaseMgt PUC.LowInc	0.90	170.00	153.00
Revise list of information utilities will provide to DRA; send same via email							
130678	TIME		11/28/2005 WIP	Mary-Lee CaseMgt PUC.LowInc	0.30	170.00	51.00
Teleconference with Joseph from PUC re: advice letters and Woo letter on backbilling issue							
130679	TIME		11/29/2005 WIP	Mary-Lee CaseMgt PUC.LowInc	1.60	170.00	272.00
Prepare section on web accessibility for outreach packet							
130680	TIME		11/30/2005 WIP	Mary-Lee CaseMgt PUC.LowInc	0.70	170.00	119.00
Prepare section on web accessibility for outreach packet							
130681	TIME		11/30/2005 WIP	Mary-Lee CaseMgt PUC.LowInc	0.60	170.00	102.00
Prepare correction to notes re: Nov. 9 workshop; email same to list							
130682	TIME		11/30/2005 WIP	Mary-Lee CaseMgt PUC.LowInc	0.30	170.00	51.00
Teleconference with SDG&E re: outreach to disabled community							
130683	TIME		11/30/2005 WIP	Mary-Lee CaseMgt PUC.LowInc	1.20	170.00	204.00
Prepare information for SDG&E re: accessibility for brochure to disabled community							
130684	TIME		11/30/2005 WIP	Mary-Lee CaseMgt PUC.LowInc	0.80	170.00	136.00

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Slip ID	Dates and Time	Status	Description	Attorney Activity Case Assc./Clerk	Units	Rate	Slip Value
			Receive and review information from utilities requested based on 2d teleconference				
130842	TIME 12/5/2005	WIP		Mary-Lee Pldngs/CaseM PUC.LowInc	1.20	170.00	204.00
			Revise comments re: draft decision on Low Income funding				
130843	TIME 12/5/2005	WIP		Mary-Lee CaseMgt PUC.LowInc	0.10	170.00	17.00
			Teleconference to Public Advisor re: bill inserts (leave message)				
130845	TIME 12/6/2005	WIP		Mary-Lee CaseMgt PUC.LowInc	1.00	170.00	170.00
			Prepare chart re: information provided by utilities				
130846	TIME 12/6/2005	WIP		Mary-Lee CaseMgt PUC.LowInc	0.30	170.00	51.00
			Email PG&E and SCE re: missing information				
130847	TIME 12/7/2005	WIP		Mary-Lee CaseMgt PUC.LowInc	0.90	170.00	153.00
			Prepare paragraphs on web accessibility for outreach packet				
130848	TIME 12/9/2005	WIP		Mary-Lee CaseMgt PUC.LowInc	1.20	170.00	204.00
			Receive and review SDG&E brochure for people with disabilities				
130849	TIME 12/9/2005	WIP		Mary-Lee CaseMgt PUC.LowInc	0.50	170.00	85.00
			Revise outreach packet				
Total: Mary-Lee							
			Billable		95.30		16201.00
			Unbillable		0.00		0.00
			Total		95.30		16201.00

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Slip ID	Dates and Time	Status	Description	Attorney Activity Case Assc./Clerk	Units	Rate	Slip Value
<u>Attorney: Melissa</u>							
130878	TIME		9/21/2005 WIP	Melissa CaseMgt PUC.LowInc	0.50	425.00	212.50
Teleconference with public advisor's office re: invitation to participate in en banc hearing on 10/6 to present disability perspective on natural gas price hikes and agenda for same; conference with Mary-Lee Kimber re: same and plan for presentation							
130880	TIME		9/22/2005 WIP	Melissa CaseMgt PUC.LowInc	0.20	425.00	85.00
Email exchange with Public Advisor's office setting up phone conference for 9/26							
130881	TIME		9/23/2005 WIP	Melissa CaseMgt PUC.LowInc	0.30	425.00	127.50
Review TURN memo re: consumer submission prior to en banc hearing							
130882	TIME		9/25/2005 WIP	Melissa CaseMgt PUC.LowInc	0.30	425.00	127.50
Email to TURN re: disability issues to be included in consumer memo							
129888	TIME		9/26/2005 WIP	Melissa CaseMgt PUC.LowInc	0.60	425.00	255.00
Teleconference with Linda Serazawa re: anticipated agenda and format for public hearing							
129889	TIME		9/26/2005 WIP	Melissa CaseMgt PUC.LowInc	0.20	425.00	85.00
Review of proceeding hosting public hearing and plan to intervene in same; instructions to Mary-Lee Kimber re: same							
129890	TIME		9/26/2005 WIP	Melissa CaseMgt PUC.LowInc	0.20	425.00	85.00
Email exchange with Stefanie Cox re: outreach to invite people with disabilities to public hearing							
131362	TIME		9/27/2005 WIP	Melissa CaseMgt PUC.LowInc	0.20	425.00	85.00
Meeting with Mary-Lee Kimber re: preparation for hearing							

Slip ID	Dates and Time	Attorney Activity	Case	Units	Rate	Slip Value
Description		Assoc./Clerk				
130883	TIME 9/28/2005 WIP	Melissa	CaseMgt PUC.LowInc	0.60	425.00	255.00
Receive and review draft of consumer comments from TURN; teleconference with Hayley re: same						
130884	TIME 9/28/2005 WIP	Melissa	CaseMgt PUC.LowInc	0.20	425.00	85.00
Receive and review final version of consumer comments						
129894	TIME 9/29/2005 WIP	Melissa	CaseMgt PUC.LowInc	0.50	425.00	212.50
Review comments submitted by utilities						
129895	TIME 9/29/2005 WIP	Melissa	CaseMgt PUC.LowInc	0.20	425.00	85.00
Teleconference with Harriet Burk re: public participation at 10/6 hearing and accommodations						
130885	TIME 9/30/2005 WIP	Melissa	CaseMgt PUC.LowInc	0.20	425.00	85.00
Update from public advisor re: accessibility of public hearing; forward samd to Stefanie Cox for outreach						
130886	TIME 9/30/2005 WIP	Melissa	CaseMgt PUC.LowInc	0.20	425.00	85.00
Review final agenda for en banc hearing						
129909	TIME 10/3/2005 WIP	Melissa	CaseMgt PUC.LowInc	0.60	425.00	255.00
Strategy session with Mary-Lee Kimber re: presentation at en banc hearing; review draft presentation and follow up re: same						
130887	TIME 10/3/2005 WIP	Melissa	CaseMgt PUC.LowInc	0.20	425.00	85.00
Receive and review questions for utilities sent by public advisor						
129915	TIME 10/4/2005 WIP	Melissa	CaseMgt PUC.LowInc	0.50	425.00	212.50
Review additional submissions for Commission;						

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Disability Rights Advocates
Chronological Detail

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Slip ID	Dates and Time	Attorney Activity	Case Assc./Clerk	Units	Rate	Slip Value
		teleconference with Mary-Lee Kimber re: preparation for participation in full panel hearing				
129916	TIME 10/5/2005 WIP	Melissa CaseMgt PUC.LowInc		0.30	425.00	127.50
		Review draft handout for hearing; teleconference with Mary-Lee Kimber re: same and final preparation				
129930	TIME 10/7/2005 WIP	Melissa CaseMgt PUC.LowInc		0.50	425.00	212.50
		Conference with Mary-Lee Kimber re: review of en banc hearing and next steps				
129945	TIME 10/10/2005 WIP	Melissa CaseMgt PUC.LowInc		0.30	425.00	127.50
		Email exchange with Hayley at TURN re: schedule issues by ALJ; messages following up re: same				
129995	TIME 10/11/2005 WIP	Melissa CaseMgt PUC.LowInc		0.40	425.00	170.00
		Teleconference with Hayley Goodson of TURN and Mary-Lee Kimber re: options for filing pleading with proposals				
130003	TIME 10/11/2005 WIP	Melissa CaseMgt PUC.LowInc		0.40	425.00	170.00
		Review and edit proposal re: medical baseline program				
131190	TIME 10/11/2005 WIP	Melissa CaseMgt PUC.LowInc		0.30	425.00	127.50
		Meeting with Stefanie Cox re: outreach to community organizations				
130012	TIME 10/12/2005 WIP	Melissa CaseMgt PUC.LowInc		2.50	425.00	1062.50
		Receive and review filings from other parties; notes re: same in preparation for comments				
130020	TIME 10/14/2005 WIP	Melissa CaseMgt PUC.LowInc		0.60	425.00	255.00
		Review and edit draft comments				

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Disability Rights Advocates
Chronological Detail

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Slip ID	Dates and Time	Attorney Activity	Case	Units	Rate	Slip Value
130021	TIME 10/14/2005	Melissa	CaseMgt PUC.LowInc	0.20	425.00	85.00

Conference with Mary-Lee Kimber re: additional points to be addressed in comments

130024	TIME 10/17/2005	Melissa	CaseMgt PUC.LowInc	0.20	425.00	85.00
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Email exchange with Hayley of TURN re: consumer comments

130025	TIME 10/17/2005	Melissa	CaseMgt PUC.LowInc	0.10	425.00	42.50
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Instructions to Jenny Tsai re: email to service list for copies

130033	TIME 10/17/2005	Melissa	CaseMgt PUC.LowInc	0.70	425.00	297.50
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Review and edit draft comments; conference with Mary-Lee Kimber re: same

130034	TIME 10/17/2005	Melissa	CaseMgt PUC.LowInc	0.40	425.00	170.00
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Final revisions to comments

130036	TIME 10/17/2005	Melissa	CaseMgt PUC.LowInc	0.20	425.00	85.00
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Conference with Mary-Lee Kimber re: preparation for reply comments

130041	TIME 10/18/2005	Melissa	CaseMgt PUC.LowInc	0.80	425.00	340.00
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Receive and review comments from other parties; email exchange with Mary-Lee Kimber re: same

130045	TIME 10/19/2005	Melissa	CaseMgt PUC.LowInc	0.20	425.00	85.00
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Conference with Mary-Lee Kimber re: additional comments and preparation of reply

130050	TIME 10/19/2005	Melissa	CaseMgt PUC.LowInc	0.80	425.00	340.00
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Disability Rights Advocates
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Slip ID	Dates and Time	Attorney Activity	Case	Units	Rate	Slip Value
Description			Assoc./Clerk			
Review/edit reply comments						
130303	TIME 10/20/2005 WIP	Melissa CaseMgt PUC.LowInc		0.20	425.00	85.00
Update from Mary-Lee Kimber re: workshop						
130306	TIME 10/21/2005 WIP	Melissa CaseMgt PUC.LowInc		0.30	425.00	127.50
Conference with Mary-Lee Kimber re: workshop and plan for call with utilities on access issues						
130307	TIME 10/21/2005 WIP	Melissa CaseMgt PUC.LowInc		0.30	425.00	127.50
Review and edit proposed agenda for access call; conference with Mary-Lee Kimber re: same						
130321	TIME 10/24/2005 WIP	Melissa CaseMgt PUC.LowInc		1.50	425.00	637.50
Teleconference with utilities on access issues; follow up call with ALJ re: same						
130323	TIME 10/24/2005 WIP	Melissa CaseMgt PUC.LowInc		0.80	425.00	340.00
Review and edit summary of call for ALJ Weissman						
130329	TIME 10/25/2005 WIP	Melissa CaseMgt PUC.LowInc		0.70	425.00	297.50
Teleconference with PUC Energy Division staff re: accessibility issues						
130335	TIME 10/25/2005 WIP	Melissa CaseMgt PUC.LowInc		3.10	425.00	1317.50
Receive and review draft decision; prepare comments re: same						
130336	TIME 10/26/2005 WIP	Melissa CaseMgt PUC.LowInc		1.70	425.00	722.50
Finalize comments re: draft decision						
130337	TIME 10/26/2005 WIP	Melissa CaseMgt PUC.LowInc		1.00	425.00	425.00

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Disability Rights Advocates
Chronological Detail

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Slip ID	Dates and Time	Status	Description	Attorney Activity Case Assc./Clerk	Units	Rate	Slip Value
			Receive and review comments from other parties; notes re: same				
130344	10/31/2005	TIME	WIP	Melissa CaseMgt PUC.LowInc	0.20	425.00	85.00
			Exchange messages with public advisor re: notices				
130347	10/31/2005	TIME	WIP	Melissa CaseMgt PUC.LowInc	0.40	425.00	170.00
			Receive and review proposed bill inserts re: accessibility				
130349	10/31/2005	TIME	WIP	Melissa CaseMgt PUC.LowInc	0.20	425.00	85.00
			Receive and review emails re: bill inserts; review and edit				
130350	10/31/2005	TIME	WIP	Melissa CaseMgt PUC.LowInc	0.20	425.00	85.00
			Review and edit email to utilities re: medical baseline program				
130421	11/1/2005	TIME	WIP	Melissa CaseMgt PUC.LowInc	0.20	425.00	85.00
			Review notice of meeting re: outreach; email re: same				
130444	11/8/2005	TIME	WIP	Melissa CaseMgt PUC.LowInc	0.20	425.00	85.00
			Update from Mary-Lee Kimber re: mailers and follow up call with utilities on medical baseline				
130615	11/8/2005	TIME	WIP	Melissa CaseMgt PUC.LowInc	0.20	425.00	85.00
			Prepare with Mary-Lee Kimber for call on outreach				
130451	11/9/2005	TIME	WIP	Melissa CaseMgt PUC.LowInc	0.30	425.00	127.50
			Update from Mary-Lee Kimber re: call on LIEE workshops; conference with Mary-Lee Kimber re: outreach on medical baseline; review and edit email to utilities				
130459	11/10/2005	TIME	WIP	Melissa CaseMgt PUC.LowInc	0.20	425.00	85.00

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Disability Rights Advocates
Chronological Detail

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Slip ID	Dates and Time	Status	Description	Attorney Activity Case Assc./Clerk	Units	Rate	Slip Value
			Update from Mary-Lee Kimber re: responses to medical baseline issues				
130493	11/15/2005	TIME	WIP	Melissa CaseMgt PUC.LowInc	0.20	425.00	85.00
			Receive and review SCE bill insert; conference with Mary-Lee Kimber re: same				
130503	11/18/2005	TIME	WIP	Melissa CaseMgt PUC.LowInc	0.20	425.00	85.00
			Review summary memo; plan next steps				
130514	11/21/2005	TIME	WIP	Melissa CaseMgt PUC.LowInc	0.20	425.00	85.00
			Review summary of phone conference; notes to Mary-Lee Kimber				
130521	11/23/2005	TIME	WIP	Melissa CaseMgt PUC.LowInc	0.20	425.00	85.00
			Review and edit letter to LIOB re: backbilling issue				
131744	12/8/2005	TIME	WIP	Melissa CaseMgt PUC.LowInc	0.10	425.00	42.50
			Update from Mary-Lee Kimber re: bill insert issue				
131745	12/12/2005	TIME	WIP	Melissa CaseMgt PUC.LowInc	0.30	425.00	127.50
			Review and edit outreach materials for utilities				
131746	12/12/2005	TIME	WIP	Melissa CaseMgt PUC.LowInc	0.30	425.00	127.50
			Review San Diego outreach materials; conference with Mary-Lee Kimber re: same				
131750	1/1/2006	TIME	WIP	Melissa CaseMgt PUC.LowInc	0.30	425.00	127.50
			Receive and review Notice of Intent decision; email Mary-Lee Kimber re: same				

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Disability Rights Advocates
Chronological Detail

Slip ID Dates and Time Status Description	Attorney Activity Case Assoc./Clerk	Units	Rate	Slip Value
Total: Melissa				
	Billable	28.10		11942.50
	Unbillable	0.00		0.00
	Total	28.10		11942.50
Grand Total				
	Billable	163.10		31716.50
	Unbillable	0.00		0.00
	Total	163.10		31716.50

EXHIBIT C

Slip ID	Dates and Time	Attorney Activity Case Assc./Clerk	Units	Rate	Slip Value
<u>Attorney: Law Clerk</u>					
131189	TIME 10/7/2005 WIP	Law Clerk Fees PUC.LowInc JT	0.20	90.00	18.00
Meeting with Melissa Kasnitz re: service of notice of intent and motion to intervene					
130816	TIME 10/11/2005 WIP	Law Clerk Fees PUC.LowInc JT	0.70	90.00	63.00
Prepare for filing and electronic service of notice of intent and motion to intervene					
Total: Law Clerk					
			Billable	0.90	81.00
			Unbillable	0.00	0.00
			Total	0.90	81.00

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Disability Rights Advocates
Chronological Detail

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Slip ID	Dates and Time	Attorney Activity	Case	Units	Rate	Slip Value
Description		Assoc./Clerk				
<u>Attorney: Mary-Lee</u>						
128181	TIME	Mary-Lee		2.30	170.00	391.00
9/28/2005		Fees				
WIP		PUC.LowInc				
Prepare Motion to Intervene						
128189	TIME	Mary-Lee		4.10	170.00	697.00
9/29/2005		Fees				
WIP		PUC.LowInc				
Draft motion to intervene and notice of intent						
131292	TIME	Mary-Lee		3.10	170.00	527.00
12/19/2005		Fees				
WIP		PUC.LowInc				
Draft request for compensation: Substantial Contribution part; conference with Melissa Kasnitz re: same						
131363	TIME	Mary-Lee		1.00	170.00	170.00
12/20/2005		Fees				
WIP		PUC.LowInc				
Revise Request for Compensation						
131364	TIME	Mary-Lee		1.20	170.00	204.00
12/20/2005		Fees				
WIP		PUC.LowInc				
Draft Request for Compensation: Fees part						
131365	TIME	Mary-Lee		2.30	170.00	391.00
12/21/2005		Fees				
WIP		PUC.LowInc				
Revise Request for Compensation						
131366	TIME	Mary-Lee		0.90	170.00	153.00
12/22/2005		Fees				
WIP		PUC.LowInc				
Revise Request for Compensation						
131367	TIME	Mary-Lee		1.30	170.00	221.00
12/23/2005		Fees				
WIP		PUC.LowInc				
Revise Request for Compensation						
131450	TIME	Mary-Lee		0.30	170.00	51.00
1/2/2006		Fees				
WIP		PUC.LowInc				
Receive and review Notice of Intent for DRA						

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Disability Rights Advocates
Chronological Detail

Slip ID	Dates and Time	Attorney Activity	Case	Units	Rate	Slip Value
131453	TIME	Mary-Lee	Assc./Clerk	1.30	170.00	221.00
	1/2/2006	Fees				
	WIP	PUC.LowInc				

Revise Request for Compensation: Notice of Intent section;
conference with Melissa Kasnitz re: revisions

131454	TIME	Mary-Lee		1.50	170.00	255.00
	1/3/2006	Fees				
	WIP	PUC.LowInc				

Revise Request for Compensation: Advocates' Fees section

131455	TIME	Mary-Lee		1.00	170.00	170.00
	1/4/2006	Fees				
	WIP	PUC.LowInc				

Final revisions on Request for Compensation

Total: Mary-Lee

Billable	20.30	3451.00
Unbillable	0.00	0.00
Total	20.30	3451.00

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Disability Rights Advocates
Chronological Detail

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Slip ID	Dates and Time	Status	Description	Attorney Activity Case Assc./Clerk	Units	Rate	Slip Value
<u>Attorney: Melissa</u>							
129893	TIME		9/29/2005 WIP	Melissa Fees PUC.LowInc	0.50	425.00	212.50
Review and edit motion to intervene							
129927	TIME		10/6/2005 WIP	Melissa Fees PUC.LowInc	0.90	425.00	382.50
Review and edit notice of intent and motion to intervene; finalize same							
129940	TIME		10/7/2005 WIP	Melissa Fees PUC.LowInc	0.20	425.00	85.00
Instructions to Jenny Tsai re: service of notice of intent and motion to intervene							
129994	TIME		10/11/2005 WIP	Melissa Fees PUC.LowInc	0.20	425.00	85.00
Message to/from ALJ re: status of motion to intervene and notice of intent							
131747	TIME		12/19/2005 WIP	Melissa Fees PUC.LowInc	0.20	425.00	85.00
Conference with Mary-Lee Kimber re: preparation of fee motion							
131748	TIME		12/20/2005 WIP	Melissa Fees PUC.LowInc	0.50	425.00	212.50
Review and edit draft fee motion							
131749	TIME		12/22/2005 WIP	Melissa Fees PUC.LowInc	0.60	425.00	255.00
Review and edit fee motion							
131751	TIME		1/2/2006 WIP	Melissa Fees PUC.LowInc	0.20	425.00	85.00
Conference with Mary-Lee Kimber re: revisions to request for compensation							
131752	TIME		1/2/2006 WIP	Melissa Fees PUC.LowInc	0.30	425.00	127.50

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Disability Rights Advocates
Chronological Detail

Slip ID	Attorney			
Dates and Time	Activity			
Status	Case			
Description	Assoc./Clerk	Units	Rate	Slip Value
Review and edit request for compensation				
Total: Melissa	Billable	3.60		1530.00
	Unbillable	0.00		0.00
	Total	3.60		1530.00
Grand Total	Billable	24.80		5062.00
	Unbillable	0.00		0.00
	Total	24.80		5062.00

EXHIBIT D

Disability Rights Advocates, Inc.

PUC . Low Income

All Transactions

	QB	Intra	TOTAL
Expense			
Photocopying		864.50	\$ 864.50
Postage and Delivery	96.79		\$ 96.79
Telephone & Fax	5.49		\$ 5.49
Travel	234.40		\$ 234.40
Total Expense	<u>336.68</u>	<u>864.50</u>	<u>\$ 1,201.18</u>

EXHIBIT E

DISABILITY RIGHTS ADVOCATES
449 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

1 SID WOLINSKY (California Bar No. 33716)
2 MONICA GORACKE (California Bar No. 218758)
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9 TTY: (510) 451-8716
10 Email: general@dralegal.org

11 DAVID W. OESTING (Alaska Bar No. 8106041)
12 KARMYN OLMSTEAD (Alaska Bar No. 0311073)
13 DAVIS WRIGHT TREMAINE LLP
14 701 West Eighth Avenue, Suite 800
15 Anchorage, Alaska 99501-3468
16 Telephone: (907) 257-5300
17 Facsimile: (907) 257-5399

18 DAVID FLEURANT (Alaska Bar No. 8611109)
19 SONJA KERR (Minnesota Bar No. 18777x)
20 DISABILITY LAW CENTER OF ALASKA
21 3330 Arctic Boulevard, Suite 103
22 Anchorage, Alaska 99503
23 Telephone: (800) 478-1234
24 E-MAIL: AKPA@DLCAK.ORG

25 UNITED STATES DISTRICT COURT
26 DISTRICT OF ALASKA

27 ALEXANDER NOON, a minor, by his
28 guardian ad litem TRACY BARBEE, et al.,

Plaintiffs,

v.

ALASKA STATE BOARD OF EDUCATION
AND EARLY DEVELOPMENT; ROGER
SAMPSON, Commissioner of Education &
Early Development, sued in his official
capacity; ANCHORAGE SCHOOL
DISTRICT; RICHARD SMILEY,
Administrator, Standards and Assessment,
Alaska Department of Education & Early
Development, sued in his official capacity,

Defendants.

Case No. A04-0057 CV (JKS)

CLASS ACTION

**DECLARATION OF RICHARD M. PEARL
IN SUPPORT OF PLAINTIFF'S MOTION
FOR ATTORNEY'S FEES AND COSTS**

1 **DECLARATION OF RICHARD M. PEARL IN SUPPORT OF PLAINTIFFS'**
2 **MOTION FOR AWARD OF REASONABLE ATTORNEYS' FEES**

3 I, Richard M. Pearl, declare:

4 1. I am a member in good standing of the California State Bar. This
5 declaration is submitted in support of Plaintiffs' motion for reasonable attorneys' fees and
6 expenses.

7 2. Briefly summarized, my background is as follows: I am a 1969 graduate
8 of Boalt Hall School of Law, University of California, Berkeley. After graduation, I
9 spent fourteen years in federally funded legal services programs before going into private
10 practice in 1982. From 1977 to 1982, I was Director of Litigation for California Rural
11 Legal Assistance, Inc., which at that time had more than fifty attorneys. Since April
12 1987, I have been a sole practitioner in the San Francisco Bay Area. Martindale Hubbell
13 rates my law firm "AV." A copy of my Resume is attached hereto as Exhibit A.

14 3. Since 1982, my practice has been a general civil litigation practice, with
15 an emphasis on cases and appeals involving court-awarded attorneys' fees. I have
16 lectured and written on court-awarded attorneys' fees on numerous occasions, including
17 four CEB panels on the subject. For the past several years, I have been a member of the
18 California State Bar's Attorneys Fees Task Force and have testified before the State Bar
19 Board of Governors and the California Legislature on attorneys' fee issues. I am the
20 author of California Attorney Fee Awards, 2d Ed. (Calif. Cont. Ed. of Bar 1994), and its
21 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, and 2004 Supplements. I also
22 authored the 1984, 1985, 1987, 1988, 1990, 1991, 1992, and 1993 Supplements to CEB's
23 California Attorney's Fees Award Practice. In addition, I authored a federal manual on
24 attorneys' fees entitled Attorneys' Fees: A Legal Services Practice Manual, published by
25 the Legal Services Corporation. I also co-authored the chapter on "Attorney Fees" in
26 Volume 2 of CEB's Wrongful Employment Termination Practice, 2d Ed. (1997).

27
28

Noon v. Alaska State Bd. of Educ. & Early Dev., Case No. A04-0057 CV (JKS)
**DECLARATION OF RICHARD M. PEARL IN SUPPORT OF PLAINTIFF'S MOTION FOR
ATTORNEY'S FEES AND COSTS**

fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

1 4. More than eighty percent (80%) of my practice is devoted to issues
2 involving court-awarded attorney's fees. I have been counsel in over one hundred twenty
3 five (125) attorneys' fee applications in state and federal courts, primarily representing
4 other attorneys. I also have briefed and argued at least thirty (30) appeals involving
5 attorneys' fees issues.

6 5. I have been retained as an expert witness on attorneys' fee issues on at
7 least twenty-five (25) occasions, on behalf of both fee claimants and those opposing fee
8 applications. On at least ten (10) occasions, I have been qualified as an expert on
9 attorneys' fees in judicial proceedings and arbitrations. I also have served as an arbitrator
10 of attorney fee issues.

11 6. The current rate for my services is \$495 per hour; that is the rate I charge
12 market-rate paying clients for my services. My hourly rates have been found reasonable
13 by numerous courts. Most recently, my 2004 hourly rate of \$475 per hour was found
14 reasonable by Judge John J. Golden, retired, in *Environmental Protection Information*
15 *Center et al v. California Dept. of Forestry and Fire Prot. et al (Pacific Lumber Co.,*
16 *Real Party in Interest)*, Humboldt County Superior Court No. CV990445, Order
17 Awarding Attorney Fees filed September 24, 2004. It also was found reasonable in
18 *Jordan v. Dept. of Motor Vehicles*, JAMS Ref. No. 1100040574, Arbitration Decision
19 and Award dated April 14, 2004, and the federal government has conceded it is
20 reasonable in an on-going Consent Decree enforcement case. My 2003 hourly rate of
21 \$450 per hour was found reasonable by Judge Robert B. Freedman in *Chopra et al v.*
22 *ADVO, Inc.*, Alameda County Superior Court No. CH221306-2, by Judge Richard L.
23 Gilbert (retired), serving as Arbitrator in *Planning and Conservation League v.*
24 *Department of Water Resources*, Sacramento Superior Court No. 95ASCS03216, and by
25 Judge Michael S. Fields in *Sanchez, et al. v. Sea Mist Farms, LLC, et al.*, Monterey
26 County Superior Court No. M56954. My prior rate of \$425 per hour was found

27
28 **Noon v. Alaska State Bd. of Educ. & Early Dev., Case No. A04-0057 CV (JKS)**
DECLARATION OF RICHARD M. PEARL IN SUPPORT OF PLAINTIFF'S MOTION FOR
ATTORNEY'S FEES AND COSTS

1500 Fifteenth Street, Suite 303
Oakland, California 94612
(510) 451-8644

1 reasonable by Judge David L. Ballati in *Gordon v. Boas International Motors*, San
2 Francisco Superior Court No. 318475. My previous rate of \$400 per hour was found
3 reasonable by Judge Marilyn Hall Patel in *Environmental Protection Information Center,*
4 *Inc. v. Pacific Lumber Co.*, 2002 U.S. Dist. LEXIS 17909 (N.D. Cal. 2002), by Judge
5 James McBride in *Dominika S. v. Saenz*, San Francisco Superior Court No. 317039. My
6 prior rate of \$375 per hour was found reasonable by retired federal judge John G. Davies
7 in *Baskins v. Culligan International Co.*, Nos. BC 177201, 186154, by Judge Gordon
8 Barranco in *Aikens v. Oliver*, Alameda County Superior Court No. 784492-6, by Judge
9 Stuart Pollak in *Jesus Doe v. Regents of University of California*, San Francisco Superior
10 Court No. 965090, by Judge Carlos Bea in *Aguilar v. Avis, Inc.*, San Francisco Superior
11 Court No. 948597, and by Judge David Garcia in *Lealao v. Beneficial California, Inc.*,
12 San Francisco Superior Court No. 972921; it also is the rate conceded to be reasonable
13 and awarded in *Hasan v. Contra Costa County*, N.D. Cal. No. C-99-0084 WHO, and
14 *Pedro A. v. Dawson*, San Francisco Superior Court No. 965089.

15 7. I am aware of the hourly rate being claimed by Plaintiffs' counsel and
16 their experience levels.

17 8. I am frequently called upon to opine about the reasonableness of hourly
18 rates, and my declarations on that issue have been cited favorably by numerous courts.
19 Much of the extensive evidence I have obtained on this issue is set forth below. It shows
20 that the hourly rates being claimed by Plaintiffs' attorneys here are well within the range
21 of hourly rates charged by attorneys of equivalent experience, skill, and expertise for
22 comparable work.

23 9. Through my writing and practice, I have become familiar with the market
24 rates charged by attorneys in California and elsewhere. This familiarity has been
25 obtained in several ways: (1) by handling attorneys' fee litigation; (2) by discussing fees
26 with other attorneys; (3) by obtaining declarations regarding prevailing market rates in
27

1 cases in which I represent attorneys seeking fees; and (4) by reviewing attorneys' fee
2 applications and awards in other cases, as well as articles on attorney's fees in the legal
3 newspapers and treatises. This information I have gathered shows that the hourly rates
4 being claimed by Plaintiffs' counsel in this case are reasonable. Specifically, the
5 reasonableness of counsels' rates is shown by the following facts regarding the non-
6 contingent rates charged by attorneys for comparable services:

7 a. Rates found reasonable in other cases.

8 2004 Rates

9 (1) *Gustafson, et al. v. University of California at Berkeley*, N.D. Cal.
10 No. C-97-4016 BZ (Order Granting Final Approval of Class Action Settlement
11 Agreement, filed March 23, 2005), in which the court found the following 2004 rates
12 reasonable.

<u>Years of Experience</u>	<u>Rate</u>
43	\$595.00
19	\$495.00
11	\$435.00
8	\$330.00
4	\$275.00
3	\$235.00
Paralegal	\$135.00

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19 (2) *Zuckman v. Allied Group, Inc.*, N.D. Cal. No. C-02-05800 SI (Order
20 Granting Final Approval of Class Settlement and Awarding Attorney's Fees and Costs,
21 filed September 7, 2004), in which the court found the following 2004 rates reasonable,
22 plus a 2.29 multiplier:

<u>Years of Experience</u>	<u>Rate</u>
26	\$475
21	575
12	375
9	385
6	320
2	285

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1 (3) *Millar v. San Francisco Bay Area Rapid Transit Dist.*, Alameda
2 County Superior Court No. 830013-9, in which Judge George C. Hernandez, Jr., awarded
3 the following 2004 rates:

<u>Years of Experience</u>	<u>Rate</u>
42	\$600
24	490
11	350
7	325
2	230
Paralegal	160

9 2003 Rates

10
11 (1) *Microsoft I-V Cases*, San Francisco Superior Court No. J.C.C.P.
12 No. 4106 (Order and Statement of Decision re Class Counsel's Petition for Attorneys'
13 Fees and Costs, filed September 9, 2004), in which Judge Paul H. Alvarado awarded fees
14 at the following 2003 rates, plus a 2.0 multiplier for much of the work:

<u>Years of Experience</u>	<u>Rate</u>
52	\$590
39	550
36	550
25	520
24	485

19
20 (2) *Krumme v. Mercury Ins. Co.*, San Francisco Superior Court No.
21 313367 (Order Awarding Attorney's Fees Pursuant to Code of Civil Procedure Section
22 1021.5, filed July 14, 2003, affirmed on appeal as 123 Cal.App.4th 9 (2004)), in which
23 Judge Robert Dondero awarded plaintiff's counsel the following hourly rates, plus a 1.5
24 multiplier:

<u>Years of Experience</u>	<u>Rate</u>
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27
28 *Noon v. Alaska State Bd. of Educ. & Early Dev.*, Case No. A04-0057 CV (JKS)
**DECLARATION OF RICHARD M. PEARL IN SUPPORT OF PLAINTIFF'S MOTION FOR
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1	18	\$425
2	Associate	250
	Paralegals	100

3
4 (3) *California Advocates for Nursing Home Reform v. Bonta*, San
5 Francisco Superior Court No. 315107, Statement of Decision filed April 13, 2004, in
6 which Judge James L. Warren awarded the following 2003 rates, plus a 2.0 multiplier:

7	<u>Years of Experience</u>	<u>Rate</u>
8	30	\$475
9	21	375
	9	275
	7	325
10	6	250
11	Paralegal	160

12 (4) *Medical Advocates for Healthy Air, etc., v. Horinko*, N.D. Cal. No.
13 C-02-5102 CRB-EDL, Report and Recommendations to Grant in Part and Deny in Part
14 Motion for Award of Attorneys' Fees and Costs, dated February 2, 2004, in which United
15 States Magistrate Judge Elizabeth D. Laporte recommended the following 2003 rates:

17	<u>Years of Experience</u>	<u>Rate</u>
18	20	\$400
	5	275
19	Law Clerk	100
	Paralegal	105

20 2002 Rates

21
22 (1) *Kotla v. Regents of Univ. of Calif.*, Alameda County Superior
23 Court No. V 014799-8, Order Granting Plaintiff's Motion for Award of Attorneys Fees
24 and Satisfaction of Lien filed November 6, 2002, reversed on other grounds, __ Cal.
25 App.4th ___, in which Judge Yolanda N. Northridge awarded 2002 rates as follows, plus
26 a 1.5 lodestar enhancement:

27
28 *Noon v. Alaska State Bd. of Educ. & Early Dev.*, Case No. A04-0057 CV (JKS)
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<u>Yea.</u>	<u>Experience</u>	<u>Rate</u>
	40	\$500
	31	450
	7	250
	Paralegals	100

b. Surveys of Rates. The reasonableness of counsel's rates also is shown by published materials on rates, including the article which appeared in *The Recorder*, on December 9, 2003 (attached hereto as Exhibit B).

c. Testimony from Other Cases. I have reviewed numerous declarations and depositions filed in other cases. These show that the hourly rates for complex litigation undertaken on a non-contingent basis by the following California law firms, listed in alphabetical order, are as follows:

Altshuler, Berzon, Nussbaum, Rubin & Demain

2004 Rates:

<u>Years Experience</u>	<u>Rate</u>
35-36	\$495
10	350
8	320
7	305
5	275
Law Clerks	160
Paralegals	145

Bushnell Caplan & Fielding

2005 Rates:

<u>Years Experience</u>	<u>Rate</u>
36	\$540
13	400

Chavez & Gertler

2005 Rates:

<u>Years Experience</u>	<u>Rate</u>
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Partners	
26	\$515
Associates	
16	475
10	395

2004 Rates:

<u>Years Experience</u>	<u>Rate</u>
Partners	
25	\$495
27	485
21	485
Associates	
15	445
14	385
16	385
13	385
12	375
9	335
Paralegals	155-175
Legal Assistants	105

2003 Rates:

<u>Years Experience</u>	<u>Rate</u>
Partners	
24	\$485
26	475
20	465
Associates	
14	425
13	375
15	355
11	345
8	305
3	275
Paralegals	135-165
Legal Assistants	95

2002 Rates:

<u>Years Experience</u>	<u>Rate</u>
Partners	
23	\$465
25	455
19	425
Associates	
13	385

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14	325
31	295
10	295
7	275
Legal Assistants	85-140

2001 Rates:

Years Experience	Rate
22	\$450
18	415
12	365
11	355
9	285
6	265
Legal Assistants	85-95

Cooley Godward LLP

2003 Rates:

<u>Years Experience</u>	<u>Rate</u>
Partners	
30	700
34	550
20	450-485
15	475
20	425
14	415
Associates	
5	410
3	270-395
7	385
5	325
2	230-270
1	215-240
Legal Assistants	115-185

2001 Rates:

<u>Years Experience</u>	<u>Rate</u>
28	\$600
18	435
8	370
7	365
4	270
3	240
Legal Assistants	90-160

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Golstein, Demchak, Baller, Borgen & Dardarian

2004 Rates:

<u>Years Experience</u>	<u>Rate</u>
Partners	
34	\$500-525
28	500
23	450
17	425
Associates	
11	340
10	330
9	320
5	265

2003 Rates:

<u>Years Experience</u>	<u>Rate</u>
Partners	
33	\$500
27	475
22	425
16	400
Associates	
10	315
9	305
8	295
7	295
5	250
Law Clerks	175
Senior Paralegal	160
Paralegal	120-140

2002 Rates:

<u>Years Experience</u>	<u>Rate</u>
Partners	
32	\$500
32	450
26	440
21	390
15	350
Associates	
14	330
12	305
9	270
8	260
7	250

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1	Law Clerks	230
2	Sr. Paralegals	175
	Paralegals	160
3	Entry Level Paralegals	140
	Database Specialist	120
		150-160

Heller, Ehrman, White & McAuliffe

2003 Rates:*

<u>Years of Experience</u>	<u>Rate</u>
(Partners)	
29	\$662
41	617
26	513
22	473
15	473
21	446
21	441
30	441
26	441
14	405
27	396
(Associates)	
24	383
10	378
10	378
20	356
11	356
17	351
6	338
4	324
5	297
6	288
13	266
2	230
2	230
4	185
Paralegals	77-203

*(May be discounted rates)

2002 Rates:

<u>Years of Experience</u>	<u>Rate</u>
(Partners)	
30	\$630
28	510
25	465-535
24	475

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1	17	460
	14	495
2	13	420
	10	418
3	(Associates)	425
	9	390
4	8	360
	5	350
5	4	320
	3	290
6	2	240
	1	200-210
7	Paralegals	170-200

2001 Rates:

<u>Years of Experience</u>	<u>Rate</u>
39	\$625
32	525
26	470
23	425
4	310
3	280
1	195
Litigation Paralegals	68-140

Howard, Rice, Nemerovski, Canady, Robertson & Falk

2002 Rates:

<u>Years Since Bar Admission</u>	<u>Rate</u>
(Directors)	
35	\$511.25
33	480
29	490
28	557.50
27	480
26	557.50
26	465
25	445
23	430
21	450
20	400
18	400
17	400
16	390
13	390
12	375
11	355

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1	.0	34
	10	270
2	8	325
	(Associates)	
3	8	297.50
	7	297.50
4	6	297.50
	6	287.50
5	5	272.50
	4	287.50
6	4	272.50
	4	262.50
7	3	262.50
	3	247.50
8	2	247.50
	2	222.50
9	1	222.50
	1	193.75

2001 Rates:

<u>Years of Experience</u>	<u>Rate</u>
36	\$550
27	475
25	430
20	395
18	385
16	385
8	300
5	265
4	255
3	215
2	215
Paralegals	95-185

Keker & Van Nest

2003 Rates:

<u>Years of Experience</u>	<u>Rate</u>
25	\$650
23	580
9	380
6	300
3	270
Paralegals	150-180

2002 Rates:

<u>Years of Experience</u>	<u>Rate</u>
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1	24	\$600
	21	500
2	8	350
	5	270
3	4	250
	Paralegals	90-160
4	Case Assistants	60

2001 Rates:

<u>Years Experience</u>	<u>Rate</u>
23	\$550

Levy, Ram & Olson

2005 Rates:

<u>Years of Experience</u>	<u>Rate</u>
25	\$490
23	490
12	375
4	275

Lieff, Cabraser, Heimann & Bernstein

2004 Rates:

<u>Years Experience</u>	<u>Rate</u>
35	\$490
22	460
5	290

2003 Rates:

<u>Years of Experience</u>	<u>Rate</u>
(Partners)	
42	\$600
32	600
30	525
29	575
26	600
25	485
21	525
17	485
16	485
15	430- 475
13	430-450
12	375
11	425- 430

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(As-)	8	310-315
	6	300-305
	5	295
	4	285-295
	3	275
	2	250-285

Milbank, Tweed, Hadley & McCloy

2002 Rates:

Years of Experience	Rate
25	\$595
15	520
10	500
9	465
6	425
5	425
4	400
2	350
1	325
Summer Associates	185
Legal Assistants	110-145
Case Clerk	40

Milberg Weiss Bershad Lerach & Hynes, LLP

(now Lerach Coughlin Stoin & Robbins)

2003 Rates:

<u>Years Experience</u>	<u>Rate</u>
39	\$650
21	590
30	585
32	535
22	525
22	495
24	480
14	460
18	440
12	405
14	395
10	385
8	310

Morgan, Lewis & Bockius, LLP

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2004 Rates:

<u>Years Experience</u>	<u>Rate</u>
24	\$600
13	470
6	335
3	230

Morrison & Foerster

2001 Rates:

<u>Years Experience</u>	<u>Rate</u>
26	\$525
19	450
13	360
5	290
3	250

O'Melveny & Myers

2002 Rates:

<u>Years Experience</u>	<u>Rate</u>
18	\$520
9	390
6	358

Pillsbury Winthrop

2004 Rates:

<u>Years Experience</u>	<u>Rate</u>
35	\$490
22	460
5	290

Rosen, Bien & Asaro

2004 Rates:

<u>Years Experience</u>	<u>Rate</u>
Partners	
42	\$600
24	490
22	450

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1	A. Rates	
	11	350
2	7	325
	4	285
3	3	265
	2	220
4	Paralegals	140-160
	Paralegal Clerks	95

2003 Rates:

	<u>Years Experience</u>	<u>Rate</u>
7	Partners	
8	41	\$575
	23	475
9	21	425
	Associates	
10	20	350
	10	325
11	6	300
	4	270
12	3	245
	3	245
13	2	225
	Law Clerks	140
14	Paralegals	100-160
	Paralegal Clerks	95

2002 Rates:

	<u>Years Experience</u>	<u>Rate</u>
17	Partners	
18	40	\$550
	22	440
19	20	400
	Associates	
20	19	330
	9	305
21	5	275
	3	235
22	2	220
	1	200
23	Law Clerks	140
	Paralegals	100-150
24	Paralegal Clerks	95

2001 Rates:

	<u>Years Experience</u>	<u>Rate</u>
26	Partners	

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	21	\$500
	19	395
Associates		365
	18	300
	8	285
	6	255
	4	230
	1	195
Law Clerks		125
Paralegals		85-140

Rudy, Exelrod & Zieff

2003 Rates:

<u>Years Experience</u>	<u>Rate</u>
35	\$500
34	500
25	475

Schneider & Wallace

2004 Rates:

<u>Years Experience</u>	<u>Rate</u>
13	\$435
11	435
9	385
7-8	350
5	325
2	225
Law Clerks/Paralegals	100

Skadden, Arps, Slate, Meagher & Flom, LLP

2004 Rates:

<u>Years Experience</u>	<u>Rate</u>
28	\$675
8	435
7	345
4	310
Summer Associates	160
Legal Assistants	110-195

Steeffel, Levitt, and Weiss

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2004 Rates:

<u>Years Experience</u>	<u>Rate</u>
35	\$490
22	460
5	290

Sturdevant Law Firm (formerly Sturdevant & Sturdevant)

2004 Rates:

<u>Years Experience</u>	<u>Rate</u>
32	\$510

2002 Rates:

<u>Years Experience</u>	<u>Rate</u>
30	\$495

10. My research regarding attorneys' fees in California indicated a sharp increase in fees over the last several years. Specifically, I have reviewed attorney fee declarations filed by Heller, Ehrman, White & McAuliffe (in *In re Pacific Gas and Electric Company*, United States Bankruptcy Court, Northern District of California Case No. 01-30923 DM); Cooley Godward (in *In re Pacific Gas and Electric Company*, United States Bankruptcy Court, Northern District of California Case No. 01-30923 DM); and Howard, Rice, Nemerovski, Canady, Falk & Rabkin (in *In re Pacific Gas and Electric Company*, United States Bankruptcy Court, Northern District of California Case No. 01-30923 DM). Applications for attorneys' fees filed in the United States Bankruptcy Court for the Northern District of California are a useful source of information on the current hourly rates charged by civil litigators. In seeking fees in a bankruptcy proceeding a lawyer must certify that A[t]he compensation and expense reimbursement requests are billed at rates, in accordance with the practice, no less favorable than those customarily employed by the applicant and generally accepted by the applicant's client. @ The United States Bankruptcy Court, Northern District of

1 California, Guidelines for Compensation and Expense Reimbursement of Professionals
2 and Trustees ' 8. Thus, lawyers seeking compensation in bankruptcy court have to state
3 that the rates charged are no more than their actual hourly rates. Civil litigators are
4 sometimes brought in to litigate matters in the bankruptcy court. I have, therefore,
5 reviewed declarations filed in support of applications for awards of attorneys= fees in
6 bankruptcy court proceedings filed in the Northern District of California Bankruptcy
7 Court setting forth the 2001-2003 hourly rates of civil litigators who expended time on
8 bankruptcy matters. I was able to identify these civil litigators through descriptions of
9 the individual attorneys contained on the law firm's web sites.

10 11. This investigation confirmed that there was a steep increase in hourly rates
11 between 2000 and 2003. For example, the hourly rate of one civil litigator who
12 graduated from law school in 1974 increased from \$583 per hour in 2001 to \$662 per
13 hour in 2003. A recent Recorder article (Exhibit B) also confirms this fact.

14 12. The hourly rates set forth above are those charged where full payment is
15 expected promptly upon the rendition of the billing and without consideration of factors
16 other than hours and rates. If any substantial part of the payment were to be deferred for
17 any substantial period of time, for example, or if payment were to be contingent upon
18 outcome or any other factor, the fee arrangement would be adjusted accordingly to
19 compensate the attorneys for those factors.

20 13. In my experience, attorneys who litigate on a contingent basis expect to
21 receive significantly higher effective hourly rates in cases where compensation is
22 contingent on success, particularly in hard fought cases where the result is uncertain. In
23 my opinion, this does not result in any "windfall" or undue "bonus" for plaintiffs'
24 counsel. Attorneys who assume representation of plaintiffs on a purely contingent basis
25 in consumer and other public interest cases are entitled to receive fees equivalent to those
26 paid in the private market. In the legal marketplace, a lawyer who assumes a significant
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1 financial risk on behalf of a client rightfully expects that his or her compensation will be
2 significantly greater than if no risk was involved (*i.e.*, if the client paid the bill on a
3 monthly basis). They also expect that their awarded fee will reflect and be adjusted
4 according to any large monetary sum that is recovered. In fact, the opinion of an expert
5 economist who testified in two cases in which I was involved was that, based on a
6 statistical risk analysis, attorneys who take cases on a contingent basis should receive
7 from three to six times the market rates paid to attorneys on a non-contingent basis.
8 Adjusting court-awarded fees upward in contingency cases to reflect the risk of loss
9 simply makes them competitive in the legal marketplace, helping to ensure that
10 meritorious cases will be brought to enforce public interest statutes and that clients who
11 have meritorious claims will more likely be able to obtain qualified counsel.

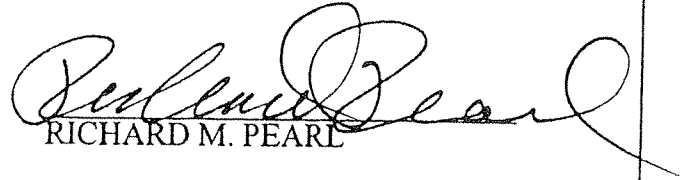
12 14. The expense and risk of public interest litigation has not diminished over
13 the years; to the contrary, these cases are in many ways more difficult than ever. As a
14 result, fewer and fewer attorneys and firms are willing to take on such litigation, and the
15 few who are willing to do so can only continue if their fee awards reflect true market
16 value.

17 15. I have reviewed the billing practices of hundreds of attorneys in
18 California. Based on my experience and knowledge of billing practices among California
19 lawyers, I can state that it is the common practice of local firms to bill their clients for
20 out-of-pocket expenses incurred in litigation, such as expert witness fees, travel, copying,
21 telephone long-distance charges, postage and messenger fees, computerized research
22 costs, and the like.

23 If called as a witness, I could and would competently testify from my personal
24 knowledge to the facts stated herein.

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

3 Executed at Berkeley, California on May 10, 2005.

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6 RICHARD M. PEARL
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44th Fifteenth Street, Suite 303
and, California 94612
(510) 451-8644

EXHIBIT A

RESUME OF RICHARD M. PEARL

RICHARD M. PEARL
LAW OFFICES OF RICHARD M. PEARL
1816 Fifth Street
Berkeley, CA 94710
(510) 649-0810
(510) 548-5074 (facsimile)
rpearl@interx.net (e-mail)

EDUCATION

University of California, Berkeley, B.A., Economics (June 1966)
Boalt Hall School of Law, Berkeley, J.D. (June 1969)

BAR MEMBERSHIP

Member, State Bar of California (admitted January 1970)
Member, State Bar of Georgia (admitted June 1970) (inactive)
Admitted to practice before all California State Courts; the United States Supreme Court; the United States Court of Appeals for the District of Columbia and Ninth Circuits; the United States District Courts for the Northern, Central, Eastern, and Southern Districts of California, for the District of Arizona and for the Northern District of Georgia; and the Georgia Civil and Superior Courts and Court of Appeals.

EMPLOYMENT

LAW OFFICES OF RICHARD M. PEARL (April 1987 to Present): Civil litigation practice ("AV" rating), with emphasis on court-awarded attorney's fees, class actions, and appellate practice.

QUALIFIED APPELLATE MEDIATOR, APPELLATE MEDIATION PROGRAM, Court of Appeal, First Appellate District (October 2000 to Present).

ADJUNCT PROFESSOR, HASTINGS COLLEGE OF THE LAW (January 1988 to Present): Teach "Public Interest Law Practice," a 2-unit course that focuses on the history, strategies, and issues involved in the practice of public interest law.

PEARL, McNEILL & GILLESPIE, Partner (May 1982 to March 1987): General civil litigation practice, as described above.

CALIFORNIA RURAL LEGAL ASSISTANCE, INC. (July 1971 to September 1983) (part-time May 1982 to September 1983):

Director of Litigation (July 1977 to July 1982)

Responsibilities: Oversaw and supervised litigation of more than 50 attorneys in CRLA's 15 field offices; administered and supervised staff of 4-6 Regional Counsel; promulgated litigation policies and procedures for program; participated in complex civil litigation.

Regional Counsel (July 1982 to September 1983 part-time) Responsibilities: Served as co-counsel to CRLA field attorneys on complex projects; provided technical assistance and training to CRLA field offices; oversaw CRLA attorney's fee cases; served as counsel on major litigation.

Directing Attorney, Cooperative Legal Services Center (February 1974 to July 1977) (Staff Attorney February 1974 to October 1975)

Responsibilities: Served as co-counsel on major litigation with legal services attorneys in small legal services offices throughout California; supervised and administered staff of four senior legal services attorneys and support staff.

Directing Attorney, CRLA McFarland Office (July 1971 to February 1974) (Staff Attorney July 1971 to February 1972)

Responsibilities: Provided legal representation to low income persons and groups in Kern, King, and Tulare Counties; supervised all litigation and administered staff of ten.

HASTINGS COLLEGE OF THE LAW, Instructor, Legal Writing and Research Program (August 1974 to June 1978)

Responsibilities: Instructed 20 to 25 first year students in legal writing and research.

CALIFORNIA AGRICULTURAL LABOR RELATIONS BOARD, Staff Attorney, General Counsel's Office (November 1975 to January 1976, while on leave from CRLA)

Responsibilities: Prosecuted unfair labor practice charges before Administrative Law Judges and the A.L.R.B. and represented the A.L.R.B. in state court proceedings.

ATLANTA LEGAL AID SOCIETY, Staff Attorney (October 1969 to June 1971)

Responsibilities: Represented low income persons and groups as part of 36-lawyer legal services program located in Atlanta, Georgia.

PUBLICATIONS

Current Issues in Attorneys' Fee Litigation, California Labor and Employment Law Quarterly (September 2002 and November 2002)

Flannery v. Prentice: Shifting Attitudes Toward Fee Agreements and Fee-Shifting Statutes, Civil Litigation Reporter (Cont. Ed. Bar Nov. 2001)

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Member, Attorneys' Fee Task Force, California State Bar

Vice President, Board of Directors, California Rural Legal Assistance Foundation

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EXHIBIT B

THE RECORDER • TUESDAY, DECEMBER 9, 2003



JASON DORF

HIGHER BILLS: Gordon Davidson, Fenwick's chairman, said his firm lagged behind competitors in hourly rates after holding steady during the economic woes of the last few years.

Rates on the Rise

For first time in two years, Fenwick & West hikes its hourly rates for partners, associates

By Renee Deger
RECORDER STAFF WRITER

Fenwick & West is wasting no time cashing in on the possibility of an economic recovery in Silicon Valley.

After two years of holding billable hour rates for partners steady, Fenwick announced to clients last week it is raising rates by 10 percent.

Fenwick's decision illustrates a growing optimism among Silicon Valley law firms that a steady increase in corporate work in the autumn means the economy may be on the rebound. Fenwick's management, at least,

seems to believe in-house lawyers who have been trying to slash legal spending during the downturn may be willing to absorb larger legal bills.

"It's a sign of bullishness that the economy is coming back," said Peter Zeughauser, a partner with law firm consultant Zeughauser Group.

Fenwick may get some company in raising rates. Law firms typically review their billing rates at the end of the year and raise them in January in anticipation of rising expenses. Managers at several Bay Area law firms say they continued to review rate hikes even during the downturn.

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Hourly Rates

Fenwick & West's pending rate increase makes the firm's per-hour partner billing rates comparable to what national firms are charging.

Firm	▼ Low End	▲ High End
Bingham McCutchen	\$340	\$735
Skadden, Arps, Slate, Meagher & Flom	\$495	\$725
Latham & Watkins	\$450	\$725
Reed Smith	\$245	\$705
Fenwick & West	\$400	\$700
Morrison & Foerster	\$215*	\$675*
Morgan, Lewis & Bockius	\$385	\$645

FENWICK

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In a letter to clients, Fenwick partners said their billing rates beginning Jan. 1 will range from \$400 to \$700 an hour, and hourly fees for associates will range from \$190 to \$400 per hour. Those fee ranges represent a 10 percent increase in partner rates and a more modest increase for associates, the letter said.

Zeughauser said the move could also mean that Fenwick needs the money and is boosting fees to increase profitability to help counter the slowdown in corporate work. "The additional incremental dollars go right to the bottom line," Zeughauser said. "This is all profit and that helps a lot."

Fenwick's revenue and profits soared during the boom, and the firm's gross peaked in 2000 when it logged \$148 million. Profits per equity partner that year were \$800,000. By 2002, the firm's revenue had slipped to \$142 million, and profits per partner dropped 19 percent to \$650,000.

Fenwick had held most partner fees at 2002 levels and associate rates at 2001 levels, according to the letter to clients. After comparing the firm's billing rates with competitors, firm managers decided Fenwick wasn't charging enough, the letter said.

"As a result, we have reluctantly concluded that increases in our rates are necessary in order to continue to attract and retain the best talent while maintaining our commitment to providing value to our clients commensurate with the fees charged," said one partner's letter to a client.

Gordon Davidson, Fenwick's chairman, said the firm did not keep pace with rate increases made by its competitors.

"Recognizing the economic downturn among our clients, we determined to hold our rates flat to be a good business partner," Davidson said.

"We reviewed independent, third-party surveys and learned our rates, which had been held flat for two or three years, were significantly below the Silicon Valley and San Francisco firms," Davidson said, "and even farther behind the New York, Los Angeles and Chicago firms which have offices in Silicon Valley."

Fenwick is not alone among firms considering rate increases. Pillsbury Winthrop is currently conducting its annual survey of partner and associate rates and any changes to their practices over the last year.

Marina Park, Pillsbury's managing partner, said rather than insulating across-the-board rate increases, the firm considers the experience level of each lawyer, particularly the partners, and where they're practicing.

"We have to be sensitive if there's a downturn in a particular area of the country," Park said. "That's something we're very cognizant of for the coming year."

The firm doesn't set limits on how much fees may go up, however. Park said some partner fees could go up by 10 percent or more while others could remain unchanged.

Holding firm on most hourly rates put Fenwick in the unenviable position of increasing fees by a larger percentage than

*'It's a sign of bullishness
that the economy is
coming back.'*

— PETER ZEUGHAUSER
law firm consultant

firms usually do in a typical year, said Ward Bower, a principal at Altman, Weil Inc., a law firm consultant.

Bower said firms have been increasing billable hour rates by 2 to 4 percent since the economy began to contract.

"They're inviting resistance," Bower said of Fenwick. "It's one thing to increase a little bit every year but to try to put across a big increase will cause clients to raise their eyebrows."

The new fees put Fenwick's partner rates just below the fees charged by bigger players, like Latham & Watkins and Skadden, Arps, Slate, Meagher & Flom, according to data compiled by The National Law Journal, an affiliate of The Recorder.

Skadden partners command hourly rates ranging from \$495 to \$725, and Latham's partners pull down \$450 to \$725 per hour, according to the data culled from law firm surveys and public records.

Fenwick's announcement drew mixed reviews from clients. Several in-house lawyers said they're resigned to price increases for some work. Fenwick's decision may prompt some of them to shop around litigation, real estate and similar kinds of work to other firms.

Nicholas Spaeth, general counsel of Intuit Inc., said he will likely shop around some work — though he stressed the larger fees won't affect Fenwick's representing the company on securities and corporate governance issues.

"There's some work that is immune from rate increases," Spaeth said. "You have a relationship with a law firm, and they provide certain core services, and they know your business."

Spaeth added that he was somewhat surprised by Fenwick's decision to boost fees now with a full recovery still uncertain. "At some point, it's inevitable," Spaeth said. "It's just not my sense the Valley has heated up yet."

Jason Mendelson, general counsel of Mobius Venture Capital, said the firm is still reasonably priced even with the increase. He also lauded the firm for holding rates down during the worst of the downturn.

"They certainly got the attention from some of my portfolio companies by doing that," Mendelson said. "Hourly rates at law firms is something we track closely on a habitual basis to make sure the portfolio companies are not overpaying for legal services."

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