

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Develop a
Successor to Existing Net Energy Metering
Tariffs Pursuant to Public Utilities Code
Section 2827.1, and to Address Other Issues
Related to Net Energy Metering.

Rulemaking 14-07-002
(Filed July 10, 2014)

**DECISION GRANTING COMPENSATION TO SIERRA CLUB
FOR CONTRIBUTION TO DECISION 16-01-044**

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| Intervenor: Sierra Club | For contribution to Decision (D.) 16-01-044 |
| Claimed: \$64,214.00 | Awarded: \$64,217.00 |
| Assigned Commissioner: Michael Picker | Assigned ALJ: Anne E. Simon |

PART I: PROCEDURAL ISSUES

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| A. Brief description of Decision: | This decision implements some of the provisions of Assembly Bill (AB) 327 (Perea), Stats. 2013, ch. 611. AB 327, among other things, adds Section 2827.1 to the Public Utilities Code, requiring the Commission to develop “a standard contract or tariff, which may include net energy metering (NEM), for eligible customer-generators with a renewable electrical generation facility that is a customer of a large electrical corporation.” |
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

| | Intervenor | CPUC Verified |
|---|-------------------|----------------------|
| Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)): | | |
| 1. Date of Prehearing Conference (PHC): | Oct. 30, 2014 | Verified |
| 2. Other specified date for NOI: | N/A | |
| 3. Date NOI filed: | Nov. 24, 2014 | Verified |
| 4. Was the NOI timely filed? | | Yes |
| Showing of customer or customer-related status (§ 1802(b)): | | |
| 5. Based on ALJ ruling issued in proceeding number: | R.14-02-001 | Verified |
| 6. Date of ALJ ruling: | July 25, 2014 | Verified |
| 7. Based on another CPUC determination (specify): | | |
| 8. Has the Intervenor demonstrated customer or customer-related status? | | Yes |
| Showing of “significant financial hardship” (§ 1802(g)): | | |
| 9. Based on ALJ ruling issued in proceeding number: | R.14-02-001 | Verified |
| 10. Date of ALJ ruling: | July 25, 2014 | Verified |
| 11. Based on another CPUC determination (specify): | | |
| 12. Has the Intervenor demonstrated significant financial hardship? | | Yes |

| Timely request for compensation (§ 1804(c)): | | |
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| 13. Identify Final Decision: | D.16-01-044 | Verified |
| 14. Date of issuance of Final Order or Decision: | Feb. 5, 2016 | Verified |
| 15. File date of compensation request: | March 28, 2016 | Verified |
| 16. Was the request for compensation timely? | | Yes |

PART II: SUBSTANTIAL CONTRIBUTION

A. Did the Intervenor substantially contribute to the final decision (*see* § 1802(i), § 1803(a), and D.98-04-059).

| Intervenor's Claimed Contribution(s) | Specific References to Intervenor's Claimed Contribution(s) | CPUC Discussion |
|--|---|-----------------|
| <p>1. Statutory Issues: The statute prompting changes to the net metering program, A.B. 327, contained two main conditions the Commission needed to interpret.</p> <p>The first condition, in Public Utilities Code Section 2827.1(b)(1), was that “renewable distributed generation continues to grow sustainably.” Sierra Club suggested that the phrase “continues to grow” meant the legislature believed the current rate of growth was a sustainable rate of growth. Sierra Club countered the utilities’ assertions that measuring DG capacity was unnecessary, pointing out that “[i]n order to satisfy the statutory mandate, the Commission must have information on adoption rate or capacity growth.” Reply Comments on ALJ’s Ruling on Policy Issues (03/30/2015), p. 2. <i>See also, e.g.</i>, Opening Comments on ALJ’s Ruling on Policy Issues (03/16/2015), pp. 1-2; Successor Tariff Proposal (08/03/2015), p. 3.</p> | <p>The Decision does not make a decision on the definition of sustainable growth, but does state that ensuring continued market growth is “the primary direction” given by the statute. Decision, p. 50. To satisfy this requirement, the Decision agrees with Sierra Club that the Commission needs to know how the new tariff is affecting installations, choosing to monitor average growth rates over a 3-5 year period. Decision, p. 53.</p> | <p>Verified</p> |

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| <p>The second statutory question concerned Sections 2827.1(b)(3) and (4), instructing the Commission to evaluate the “total benefits of the standard contract or tariff to all customers” and to ensure costs and benefits were approximately equal. Sierra Club argued throughout the proceeding, as one of our main issues, that these sections required the Commission to consider benefits to all customers, not just non-participants, and to consider all benefits, including public health improvements, the social cost of carbon, water savings, and avoided land use impacts. Sierra Club disagreed with other parties’ contentions that the RIM test satisfied the cost-benefit analysis contemplated by the statute. <i>See</i> Opening Post-Workshop Comments on Public Tool (10/01/14), pp. 3-5; Reply to Post-Workshop Comments on Public Tool (10/20/14) pp. 3-5; Opening Comments on ALJ’s Ruling on Policy Issues (March 16, 2015), pp. 4-7; Comments on Proposals for Successor Tariff (09/01/15), p. 4.</p> | <p>As acknowledged by the Decision, the question of measuring costs and benefits generated “much of the controversy in this proceeding.” The Decision agrees with Sierra Club that the RIM test could not be the primary cost-effectiveness inquiry, writing, “[n]onparticipating customers are one segment of ‘all customers,’ but they are clearly not the only focus.” Decision, p. 55. The Decision also appeared to agree with Sierra Club’s contention that distributed generation provides a wide range of benefits that have not previously been quantified: it states that while it is easy to quantify the costs of distributed generation, “the benefits to the electrical system and all customers are not fully known.” Decision, pp. 58-59. The Decision did not adopt a specific list of benefits, leaving that process to other open proceedings. Decision, pp. 60-61; Finding of Fact 12, p. 107.</p> | |
| <p>2. Importance and Quantification of Societal Benefits: A primary area of focus for Sierra Club in this proceeding was the conviction that the environmental, social, and other non-energy benefits of distributed generation are critically important. We argued that the ever-increasing certainty of the damage that will be caused by climate change, which “is no longer a hypothetical future concern to California, but a present threat affecting the reliability and resiliency of the electric system,” should impel the Commission to</p> | <p>The Decision does acknowledge the importance of the environmental benefits of renewable distributed generation to California in particular, remarking that Sierra Club’s analysis includes “many benefits that have recently increased in societal importance, such as GHG reduction benefits.” Decision, p. 59.</p> | <p>Verified. Although, Sierra Club’s proposal to balance the cost of the NEM successor tariff against the perceived societal benefits was deemed to be premature, it still made a substantial contribution to the Commission’s analysis of the issue and decision to postpone resolution</p> |

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| <p>give importance to the issue. Reply to Tariff Proposals (09/01/15), pp. 2-3, p. 5.</p> <p>Because of the importance of these benefits, we conducted original analysis in collaboration with an expert witness, quantifying California-specific values for these benefits that could be used in E3’s Public Tool by all parties to the proceeding. Attachment 2 to Successor Tariff Proposal (08/03/2015). Other parties used these values in their tariff runs. <i>See, e.g.,</i> Joint Solar Parties Successor Tariff Proposal (08/03/15), p. 3, 28.</p> | <p>The Decision did not ultimately adopt Sierra Club’s figures, finding that “[s]uch approaches are simply beyond the competence of this proceeding.” Decision, p. 59. However, the proceeding invited this type of analysis: The Public Tool include input spaces for societal benefits, but unlike all other inputs to the Tool, E3 did not provide any default values, and no California-specific studies with compatible inputs existed. Parties needed to perform independent analysis in order to develop these inputs; this was a data gap that Sierra Club sought to uniquely fill. The Decision discusses Sierra Club’s analysis at length and characterizes it as “theoretically comprehensive.” Decision, p. 58.</p> | <p>until 2019.</p> |
| <p>3. Transition to Time-of-Use-Based Net Metering: Sierra Club’s proposal for the successor tariff was to retain net metering and transition successor tariff customers to time-of-use rates in 2019. See Decision, p. 25.</p> <p>We believed this type of tariff would support continued growth of rooftop solar and “encourage behavior changes in usage of BTM generation and adoption of enabling technologies that can contribute to meeting the grid needs that will increasingly emerge with higher penetrations of renewable resources.” Successor Tariff Proposal (08/03/2015), p. 1; <i>see also</i></p> | <p>The final successor tariff is very similar to Sierra Club’s proposal: it retains net metering and requires all successor tariff customers to be on a time of use rate. Decision, p. 3. The Decision supports this plan with similar reasoning to that advanced by Sierra Club.</p> <p>“Requiring participation in available TOU rates can be an effective way to align the incentives of customers on the NEM successor tariff with system needs.” Decision, p. 75. “The Sierra Club provides some examples, including, “load-shifting from peak hours. . . [and] preferred . . . system design (such as west-facing solar) and . . .</p> | <p>Verified</p> |

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| <p>Comments on Proposals for Successor Tariff (09/01/15), pp. 11-12.</p> <p>Sierra Club argued that requiring successor tariff customers to be on a TOU rate would not violate the prohibition on mandatory TOU rates in Public Utilities Code section 745 because “the requirement to switch to TOU rates would be triggered by the optional decision to install BTM generation.” Successor Tariff Proposal (08/03/15), p. 12.</p> <p>Sierra Club also made the suggestion that residential customers who complete their interconnection application prior to implementation of default TOU rates should be able to remain on their initial TOU rate for at least five years. Comments on Proposed Decision (01/07/2016), p. 2, 4.</p> | <p>markets for new technology (like home battery storage or programmed appliances and thermostats).” Decision, p. 92, fn. 105.</p> <p>“Because taking service on the NEM successor tariff is itself voluntary (i.e., no customer is required to use the NEM successor tariff), conditioning the customer's access to the NEM successor tariff on use of a TOU rate is not inconsistent with any of the requirements of Section 745.” Decision, p. 92.</p> <p>“It is reasonable to provide residential NEM successor tariff customers who take service on a TOU rate prior to the institution of residential default TOU rates with the option of maintaining that TOU rate for a period of up to five years.” Decision, p. 111 (Finding of Fact 35). In support of this finding, the Decision notes that “This idea was raised by Sierra Club in comments on the PD.” Decision, p. 93, fn. 110.</p> | |
| <p>4. Opposition to Demand Charges and Fixed Charges: Several parties put forward tariff proposals containing fixed or demand charges, which Sierra Club opposed. We argued these fees were inappropriate for numerous policy reasons, and that the utilities provided insufficient cost justification. <i>See</i>, Comments on Tariff Proposals (09/01/15), p. 7, 10; Reply Br. (10/25/15), Decision, p. 66.</p> <p>Sierra Club argued that demand charges were inappropriate for</p> | <p>The Decision rejected all proposed fixed fees and demand charges. Decision, p. 114 (Conclusion of Law 10); p. 2.</p> <p>“[A]s echoed by a number of parties in this proceeding, demand</p> | <p>Verified</p> |

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| <p>residential customers on policy grounds because “most customers are unfamiliar with the concept.” Comments on Tariff Proposals (09/01/15), p. 9.</p> <p>Additionally, Sierra Club presented evidence on the lack of Commission precedent supporting demand charges for residential customers, pointing out that the prior decisions relied on by PG&E and SCE applied only to commercial and industrial customers. Reply Br. (10/25/15), p. 4.</p> <p>Sierra Club additionally argued that demand charges were inappropriate because none of the utilities sufficiently justified their cost basis. <i>See, e.g.</i>, Comments on Tariff Proposals (09/01/15), p. 8.</p> <p>Similarly, Sierra Club argued that SDG&E’s proposed standby charge for residential customers should not be approved because these charges are typically assessed on large customers who may require grid electricity without notice – a very disparate situation to residential customers with distributed generation. Reply Policy Comments (03/30/14) p. 6.</p> | <p>charges can be complex and hard for residential customers to understand.” Decision, p. 75; p. 108 (Findings of Fact 15 and 16).</p> <p>“The rates of residential customers were not addressed in that decision [D. 15-08-005]. Its language on demand charges, which are now part of the rates of commercial and industrial customers, should not be stretched beyond their context.” Decision, p. 69.</p> <p>The Decision agreed with Sierra Club’s concern, noting that the “methodological and cost basis for the fixed charges proposed by the IOUs for the NEM successor tariff are not simple, and far from consistent.” Decision, pp. 74-75; <i>see also</i> p. 66 and 72 (citing Sierra Club’s arguments), p. 107-108 (Findings of Fact 13 and 14).</p> <p>The Decision finds there is “no reason” to include standby charges in the successor tariff, noting that “standby charges have historically been charged to self-generating customers using non-intermittent resources.” Decision, p. 94.</p> | |
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B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

| | Intervenor's Assertion | CPUC Discussion |
|---|-------------------------------|------------------------|
| a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding? | Yes | Verified |
| b. Were there other parties to the proceeding with positions similar to yours? | Yes | Verified |
| c. If so, provide name of other parties: Vote Solar, CalSEIA, SEIA and TASC (Societal benefits and opposition to demand charges), TURN (opposition to demand charges), PG&E and NRDC (support for time-of-use-based net metering) | | Verified |
| d. Intervenor's claim of non-duplication: Sierra Club's successor tariff proposal – to retain the net metering structure, without fees, and transition to time-of-use rates in 2019 – was unique in this proceeding. Time of use rates were a component of PG&E and NRDC's successor tariff proposals, but both parties also proposed new demand charges, which Sierra Club strongly opposed. At the beginning of the proceeding, we reached out to other solar and environmental parties including NRDC, Vote Solar/SEIA, CalSEIA, TASC, IREC and CEJA to understand their positions, and it became clear no party intended to cover societal benefits. We felt this component of the Public Tool was critical to our mission and to the statutory requirements and needed to be addressed, especially because no previous evaluations existed for California that would work in the Public Tool. Several groups also shared Sierra Club's opposition to the utilities' proposed fixed charges. Sierra Club coordinated discovery and cross-examination on this issue with these other groups to minimize duplication of effort. | | Verified |

PART III: REASONABLENESS OF REQUESTED COMPENSATION**A. General Claim of Reasonableness (§ 1801 and § 1806):**

| a. Intervenor's claim of cost reasonableness: | CPUC Discussion |
|--|------------------------|
| It is difficult to quantify the ratepayer benefit of Sierra Club participation in monetary terms given that this proceeding involved a policy question and the Decision itself found the results of the public tool to be unreliable. However, Sierra Club believes the time-of-use based NEM tariff it advocated for in this proceeding, which was the policy solution adopted by the Commission, will provide ratepayer value by better aligning the value of rooftop solar generation with the time it is produced and providing a monetary incentive for NEM participants to load shift and take other action that aligns generation with grid needs. We believe the successor tariff will help cost-effectively integrate higher levels of renewables into California's grid. | Verified |

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| <p>b. Reasonableness of hours claimed:</p> <p>Sierra Club staffed this proceeding with two attorneys, where Alison Seel performed the majority of the research, drafting, and coordination with other parties, supervised by Matt Vespa. This approach minimized the total hours spent and reduced overall costs by having a more junior attorney perform most work.</p> | Verified |
| <p>c. Allocation of hours by issue:</p> <p>1) Preliminary Statutory Issues: 9%</p> <p>2) Environmental Benefits: 40%</p> <p>3) Time of Use-Based NEM: 27%</p> <p>4) Opposition to Demand Charges: 9%</p> <p>5) General: 15%</p> <p>(See Attachment 6 for spreadsheet calculation)</p> | Verified |

B. Specific Claim:*

| CLAIMED | | | | | | CPUC AWARD | | |
|--|------|-------|---------|--------------------------------|----------|------------------------------|-----------------------|-------------|
| ATTORNEY, EXPERT, AND ADVOCATE FEES | | | | | | | | |
| Item | Year | Hours | Rate \$ | Basis for Rate* | Total \$ | Hours | Rate \$ | Total \$ |
| Matt Vespa | 2014 | 16.3 | \$330 | D.15-01-046 | \$5,379 | 16.3 | \$330.00 | \$5,379.00 |
| Matt Vespa | 2015 | 28.1 | \$330 | D.16-01-022 | \$9,273 | 28.1 | \$330.00 | \$9,273.00 |
| Matt Vespa | 2016 | 5.6 | \$350 | See Comment #1 | \$1,960 | 5.6 | \$350.00 ¹ | \$1,960.00 |
| Alison Seel | 2014 | 11.2 | \$180 | D. 16-01-022 | \$2,016 | 11.2 | \$180.00 | \$2,016.00 |
| Alison Seel | 2015 | 169.7 | \$190 | D. 16-01-022 | \$32,243 | 169.7 | \$190.00 | \$32,243.00 |
| Alison Seel | 2016 | 17.8 | \$200 | See Comment #2 | \$3,560 | 17.8 | \$205.00 | \$3,649.00 |
| Tom Beach | 2015 | 22.7 | \$340 | D. 14-06-020 See Comment #3 | \$7,718 | 22.7 | \$335.00 ² | \$7,604.50 |
| Patrick McGuire | 2015 | 3 | \$200 | D. 14-06-020 See Comment #4 | \$600 | 3 | \$200.00 | \$600.00 |
| Subtotal: \$62,749 | | | | | | Subtotal: \$62,724.50 | | |
| INTERVENOR COMPENSATION CLAIM PREPARATION ** | | | | | | | | |
| Item | Year | Hours | Rate \$ | Basis for Rate* | Total \$ | Hours | Rate | Total \$ |
| Alison Seel | 2015 | 2 | \$95 | ½ Full Rate | \$190 | 2 | \$95.00 | \$190.00 |
| Alison Seel | 2016 | 11 | \$100 | ½ Full Rate | \$1,100 | 11 | \$102.00 | \$1,127.50 |
| Matt Vespa | 2016 | 1.0 | \$175 | ½ Full Rate | \$175 | 1 | \$175.00 | \$175.00 |
| Subtotal: \$1,465 | | | | | | Subtotal: \$1,492.50 | | |

¹ Application of first 5% step increase to Vespa's 2015 rate for 13+ years attorney bracket. Application of 1.28% 2016 COLA.

² Application of first 5% step increase to Beach's new 2015 rate.

| TOTAL REQUEST: \$64,214 | | TOTAL AWARD: \$64,217.00 | |
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| <p>*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenors' records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate</p> | | | |
| ATTORNEY INFORMATION | | | |
| Attorney | Date Admitted to CA BAR ³ | Member Number | Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation |
| Matt Vespa | 2002 | 222265 | No |
| Alison Seel | 2014 | 300602 | No |

C. Attachments Documenting Specific Claim and Comments on Part III:

| Attachment or Comment # | Description/Comment |
|-------------------------|---|
| Comment #1 | Mr. Vespa's 2016 rate of \$350 reflects a request for the first 5% step increase for attorneys with over 13 years of experience. Mr. Vespa is a 2002 law school graduate with 13 years' experience practicing environmental law. |
| Comment #2 | Ms. Seel's 2016 rate of \$200 reflects a request for the second 5% step increase for attorneys with 0-2 years of experience. |
| Comment #3 | Mr. Beach's most recently awarded rate is \$300 per hour in 2011. D. 14-06-020. Subsequently, the Commission adopted cost of living adjustments (COLA) of 2.2% for work performed in 2012, 2% for 2013, 2.58% for work performed in 2014, and no increase for work performed in 2015. See ALJ Resolutions 281, 287, 303 and 308. These COLA bring Mr. Beach's 2015 rate to \$320. The final requested rate of \$340 reflects a request for the first 5% step increase for experts with over 13 years of experience. Mr. Beach has actively worked on California energy policy since 1989. See D. 09-08-022, p. 17. |
| Comment #4 | Mr. McGuire's most recently awarded rate is \$180 per hour in 2011. D. 14-06-020. Subsequently, the Commission adopted cost of living adjustments (COLA) of 2.2% for work performed in 2012, 2% for 2013, 2.58% for work performed in 2014, and no increase for work performed in 2015. See ALJ Resolutions 281, 287, 303 and 308. These COLA bring Mr. McGuire's 2015 rate to \$190. The final requested rate of \$200 reflects a request for the first 5% step increase for experts with over 13 years of experience. Mr. McGuire has two decades of experience consulting in the energy industry. See D. 09-08-022, pp. 17-18. |

³ This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

PART IV: OPPOSITIONS AND COMMENTS

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| A. Opposition: Did any party oppose the Claim? | No |
| B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6))? | Yes |

FINDINGS OF FACT

1. Sierra Club has made a substantial contribution to D.16-01-044.
2. The requested hourly rates for Sierra Club's representatives, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$64,217.00

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. Sierra Club shall be awarded \$64,217.00
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company shall pay Sierra Club their respective shares of the award, based on their California-jurisdictional electric revenues for the 2015 calendar year, to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning June 11, 2016, the 75th day after the filing of Intervenor's request, and continuing until full payment is made.

3. The comment period for today's decision is waived.

This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

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|----------------------------------|--|---------------------------|----|
| Compensation Decision: | | Modifies Decision? | No |
| Contribution Decision(s): | D1601044 | | |
| Proceeding(s): | R1407002 | | |
| Author: | ALJ Simon | | |
| Payer(s): | Pacific Gas and Electric Company, San Diego Gas and Electric Company, and Southern California Edison Company | | |

Intervenor Information

| Intervenor | Claim Date | Amount Requested | Amount Awarded | Multiplier? | Reason Change/Disallowance |
|-------------------|-------------------|-------------------------|-----------------------|--------------------|-----------------------------------|
| Sierra Club | March 28, 2016 | \$64,214.00 | \$64,217.00 | N/A | Lower Hourly Rates |

Advocate Information

| First Name | Last Name | Type | Intervenor | Hourly Fee Requested | Year Hourly Fee Requested | Hourly Fee Adopted |
|-------------------|------------------|-------------|-------------------|-----------------------------|----------------------------------|---------------------------|
| Tom | Beach | Expert | Sierra Club | \$340 | 2015 | \$335 |
| Patrick | McGuire | Expert | Sierra Club | \$200 | 2015 | \$200 |
| Alison | Seel | Attorney | Sierra Club | \$180 | 2014 | \$180 |
| Alison | Seel | Attorney | Sierra Club | \$190 | 2015 | \$190 |
| Alison | Seel | Attorney | Sierra Club | \$200 | 2016 | \$205 |
| Matt | Vespa | Attorney | Sierra Club | \$330 | 2014 | \$330 |
| Matt | Vespa | Attorney | Sierra Club | \$330 | 2015 | \$330 |
| Matt | Vespa | Attorney | Sierra Club | \$350 | 2016 | \$350 |

(END OF APPENDIX)