

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

May 30, 2017

Agenda ID #15778

TO PARTIES OF RECORD IN DRAFT RESOLUTION ALJ-345

This is the draft resolution of the Administrative Law Judge Darwin E. Farrar adopting intervenor rates for 2017. It will not appear on the Commission's agenda sooner than 30 days from the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft resolution, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own order. Only when the Commission acts does the resolution become binding.

You may serve comments on the draft resolution. Opening comments shall be served no later than June 19, 2017. Service is required on all persons on the attached service list. Comments shall be served consistent with the requirements of Pub. Util. Code § 311(g) and Rule 14.5 of the Rules of Practice and Procedure. Reply comments shall be served no later than June 26, 2017.

Comments must be served separately on Assistant Chief Administrative Law Judge Farrar at edf@cpuc.ca.gov, and for that purpose I suggest hand delivery, overnight mail, or other expeditious methods of service.

Karen V. Clopton
Chief Administrative Law Judge

Attachment

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-345
Administrative Law Judge Division
_____, 2017

R E S O L U T I O N

RESOLUTION ALJ-345 Adopting Intervenor Compensation Rates for 2017 and Addressing Related Matters.

SUMMARY

In today's resolution, we adopt a cost-of-living adjustment (COLA) of 2.14 percent for work performed in the 2017 calendar year. The approved hourly rate ranges for work performed in 2017 are shown in Table 2. This COLA was calculated using the methodology approved in Resolution ALJ-303 and is based on the economic changes from the fourth quarter of 2015 to the fourth quarter of 2016.

The Commission intends to adopt a COLA for the 2018 calendar year, during the first quarter of 2018 using the same methodology and data reflecting economic changes from the fourth quarter of 2016 to the fourth quarter of 2017. As is currently the practice, the Commission will automatically apply the COLA to pending intervenor compensation requests claiming hours for work performed in 2017. This will ensure the fair application of the COLA to all those who make substantial contributions to Commission proceedings in 2017.

BACKGROUND

The Commission first established its hourly rate ranges based on compensation data provided by the major utilities.¹ Since then, the Commission has updated the hourly

¹ See Resolution (Res.) ALJ-184.

rate ranges approximately annually. Each update adjusted the ranges by means of a cost-of-living adjustment (COLA), adopted after public review and comment.²

Resolution (Res.) ALJ-281 recognized the challenges of performing a comprehensive “market rate study” for regulatory services and focused on improving the process for annual adjustments to the existing hourly rate ranges. Res. ALJ-281 directed the Chief Administrative Law Judge (CALJ) to convene a public workshop to discuss the adjustment process and, in consultation with the Commission President, to prepare a proposed resolution recommending a COLA for intervenor work performed in 2013, using factors relied on previously for this purpose or on such additional or alternative factors recommended in the public workshop.

Res. ALJ-287 approved a two-percent COLA for intervenor awards of compensation for work performed in calendar year 2013. This adjustment was developed through a consensus process undertaken by the 2012 workshop participants. The Commission found this adjustment to be reasonable because it was well supported and consistent with the forecasts and indices the Commission regularly relies on for ratemaking purposes, and was recommended by parties representing diverse interests. Among the reasons cited for parties’ consensus was their desire to minimize the time and resources devoted to addressing the 2013 hourly rate adjustment in hopes of the Commission and the parties more quickly turning their attention to the task of reviewing the methodology for market rate studies and hourly rate updates. Res. ALJ-287 directed the CALJ to continue the informal process that was used to develop the COLA for 2013.

On December 2, 2013, the Commission held a public workshop to continue the effort of developing a consistent review process for intervenor hourly rates. The workshop also discussed the findings of the State Auditor’s report³ on the intervenor compensation program, among other topics. As a result of the December 2013 workshop, the Commission has implemented several changes, including establishing a consistent methodology for developing annual COLAs.

Another workshop was held on March 22, 2016, to consider, among other things, whether a request for proposals is an appropriate path forward for conducting a market rate study, and whether and how intervenors should participate in that process, if undertaken. The Commission is currently in the process of preparing a request for proposals for a consultant to conduct an hourly rates market study.

² The Commission declined to approve a COLA for the years 2009, 2010, and 2011. *See* Res. ALJ-235, Res. ALJ-247, and Res. ALJ-267. However, COLAs were approved for 2012 (*See* Res. ALJ-281) and 2013 (*See* Res. ALJ-287).

³ The audit report is available at: <http://www.bsa.ca.gov/reports/summary/2012-118>.

Cost-of-Living Adjustment

Res. ALJ-303 adopted the following formula for calculating the COLA:

$$\frac{\frac{\% \Delta \text{CPI-U} + \% \Delta \text{CPI-W}}{2} + \frac{\% \Delta \text{ECI (Civilian)} + \% \Delta \text{ECI (Private Sector)} + \% \Delta \text{ECI (Government)}}{3}}{2} = \text{COLA}$$

This formula utilizes the indices of the Consumer Price Index, the Consumer Price Index for Urban Wage Earners and Clerical Workers, and the Employment Cost Index for civilian workers, private workers, and government workers. The indices are released on set schedule, which will allow the Commission to determine COLAs in a timely, predictable, and consistent manner.

The following table shows the indices used for the prior (2016) and current (2017) COLAs:

	CPI-U	CPI-W	ECI (Civilian)	ECI (Private)	ECI (Government)
2016	236.525 (Dec. 2015)	230.791 (Dec. 2015)	123.7 (Dec. 2015)	124.2 (Dec. 2015)	121.6 (Dec. 2015)
2017	241.432 (Dec. 2016)	235.390 (Dec. 2016)	126.6 (Dec. 2016)	127.1 (Dec. 2016)	124.1 (Dec. 2016)
% Change	2.075%	1.993%	2.344%	2.335%	2.056%

Applying the indices reflecting changes since the COLA adopted by Res. ALJ-303 results in a COLA as follows:

$$\frac{\frac{2.075\% + 1.993\%}{2} + \frac{2.344\% + 2.335\% + 2.056\%}{3}}{2} = 2.14\%$$

Hourly Rates

Table 2 shows the most recently adopted ranges for hourly rates for work performed by intervenor representatives. The rates for 2016 are adopted in today's resolution.⁴ The adopted hourly rate ranges are rounded to the nearest five-dollar increment.

Table 2						
Years of Experience	2012	2013	2014	2015	2016	2017
Attorneys						
0-2	\$155-\$210	\$160-\$215	\$165-\$220	\$165-\$220	\$165-\$225	\$170-\$230
3-4	\$205-\$240	\$210-\$245	\$215-\$250	\$215-\$250	\$220-\$255	\$225-\$260
5-7	\$285-\$305	\$290-\$310	\$300-\$320	\$300-\$320	\$305-\$325	\$310-\$330
8-12	\$305-\$360	\$310-\$365	\$320-\$375	\$320-\$375	\$325-\$380	\$330-\$390
13+	\$305-\$545	\$310-\$555	\$320-\$570	\$320-\$570	\$320-\$575	\$325-\$585
Experts						
0-6	\$130-\$190	\$135-\$195	\$140-\$200	\$140-\$200	\$140-\$205	\$145-\$210
7-12	\$160-\$275	\$165-\$280	\$170-\$285	\$170-\$285	\$170-\$290	\$177-\$295
13+	\$160-\$400	\$165-\$410	\$170-\$420	\$170-\$420	\$170-\$425	\$175-\$435

⁴ The rates for 2009 were adopted in Res. ALJ-235; for 2010 in Res. ALJ-247; for 2011 in Res. ALJ-267; for 2012 in Res. ALJ-281; for 2013 in Res. ALJ-287; for 2014 in Res. ALJ-303; and for 2015 in Res. ALJ-308; and for 2016 in Res. ALJ-329.

The Commission has various policies and procedures that affect hourly rates in particular circumstances.⁵ These policies and procedures address, among other things:

- Justifying rates higher than those generally adopted.
- Establishing rates for new representatives, or for representatives who have not had an authorized rate within four years prior to a pending request for compensation.
- Requesting increases greater than those generally adopted.
- Receiving step increases for 2008 and beyond.

We continue these previously adopted policies and procedures.

COMMENTS

Public Utilities Code Section 311(g)(1) requires that a draft resolution be served on all parties, and be subject to a public review and comment period of 30 days or more, prior to a vote of the Commission on the resolution. A draft of today's resolution was distributed on May 20, 2017. Comments should be filed by June 19, 2017 and reply comments should be filed by June 26, 2017.

FINDINGS

1. Applying the methodology adopted in Resolution ALJ-303 to current indices results in a COLA of 2.14 percent.
2. It is reasonable to allow individuals an annual "step increase" of five percent, twice within each experience level and capped at the maximum rate for that level, as authorized by D.07-01-009.
3. It is reasonable to allow individuals with previously approved hourly rates to request a COLA, consistent with today's resolution, for work performed in the 2017 calendar year.
4. It is reasonable to restrict intervenor rates to the adopted range of rates for any given level of experience.

⁵ See Decision (D.) 07-01-009 and D.08-04-010.

5. It is reasonable to continue our policy that in no event shall any generally applicable increase in intervenor rates result in rates above the highest adopted rate for that individual's level of experience, in a given year.
6. The rate levels, procedures, and policies herein are consistent with the intervenor compensation statutes (Pub. Util. Code §§1801-1812).
7. It is reasonable for intervenor work performed in 2016, and in subsequent years, to consider hourly rate adjustments by Commission resolution.

Therefore, **IT IS ORDERED** that:

1. For work performed in 2017, intervenors are authorized an hourly rate cost-of-living adjustment of 2.14 percent and new hourly ranges are adopted for 2017.
2. The five percent step increase authorized in Decision (D.) 07-11-009 shall continue in 2017. The step increase shall be administered as specified in D.08-04-010.

This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on _____, the following Commissioners voting favorably thereon:

TIMOTHY J. SULLIVAN
Executive Director

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