

STAFF REPORT

Date: July 27, 2016

To: Mayor and City Council

Thru: Andrew Clinger, City Manager

Subject: **E.9. Staff Report (For Possible Action): Approval of Special Counsel Agreement with McDonald Carano to provide legal representation in Docket No. 16-06006 before the Public Utilities Commission of Nevada: IN THE MATTER of the Application of SIERRA PACIFIC POWER COMPANY d/b/a NV Energy, filed pursuant to NRS 704.110(3), for authority to adjust its annual revenue requirement for general rates charged to all classes of electric customers and for relief properly related thereto in the amount of \$14,000 (\$2,000 General Fund; remainder reimbursed).**

From: Karl Hall, City Attorney

City of Reno Strategic Priority Alignment: Strong Financial Condition

Summary: Staff requests that the City Council approve a Special Counsel Agreement with McDonald Carano to provide legal representation in Docket No. 16-06006 and Docket No. 16-07001 before the Public Utilities Commission of Nevada: IN THE MATTER of the Application of SIERRA PACIFIC POWER COMPANY d/b/a NV Energy, filed pursuant to NRS 704.110(3), for authority to adjust its annual revenue requirement for general rates charged to all classes of electric customers and for relief properly related thereto, and NRS 704.741 for approval of its triennial integrated resource plan.

Discussion: The PUC Local Government Working Group currently consists of the City of Reno, the City of Carson City, the City of Sparks, the Douglas County School District, the Washoe County School District, the Carson City School District, the Reno-Tahoe International Airport, and the Reno-Sparks Indian Colony (the “Coalition”). The local governments formed the Coalition in response to the Public Utility Commission’s (“PUC”) recent actions regarding rooftop solar and net metering.

NV Energy recently filed its general rate case. At this point, NV Energy’s application does not request any PUC action that would financially impact the Coalition. However, given what happened in the prior rooftop solar docket, the PUC could unilaterally take action that will financially impact the members of the Coalition. For this reason, staff recommends that the City retain McDonald Carano to file a reservation establishing the right to intervene, monitor the

general rate case, and intervene on the Coalition's behalf if and when it becomes necessary. Additionally, to file, monitor and intervene on the integrated resource plan case on the Coalition's behalf if and when it becomes necessary. It is anticipated that a second agreement for monitoring subsequent integrated resource planning case will be brought to Council in the future, in the amount of \$14,000, for a total of \$28,000 for both agreements. The City's portion for both contracts is estimated at \$4,000 (\$2,000 each).

NRS 41.0344 provides that the City Attorney may employ Special Counsel whose compensation must be fixed by the governing body of the political subdivision if he determines that it is impracticable or could constitute a conflict of interest for legal services to be rendered by his office. Compensation for Special Counsel must be paid by the political subdivision. Here, given the complexities and time consuming nature of general ratemaking proceedings, the City Attorney has determined that it would be impracticable for his office to provide legal services in this matter.

Financial Implications: Based on filings to date, McDonald Carano is estimating 35 hours at \$400 per hour (\$14,000) to monitor the general rate case. If an issue develops that directly relates to the interests of the group that is in addition to monitoring the case, McDonald Carano will provide a revised estimate. The City will enter the Agreement with McDonald Carano, and the other Coalition members will reimburse the City for the remainder of the litigation costs above the estimated \$2,000.

In addition, for the future agreement to monitor the subsequent integrated resource planning case, McDonald Carano is estimating another 35 hours at \$400 per hour (\$14,000). At this point, the City's share for both cases is approximately \$4,000. The funds to pay for the Special Counsel Agreement will come from the City Attorney's budget. Funds for outside counsel are included in the Fiscal Year (FY) 16/17 budget.

Legal Implications: To engage McDonald Carano, City Council must also approve a waiver of conflict of interest.

Recommendation: Staff recommends City Council approve the Agreement and waive any conflict of interest.

Proposed Motion: I move to approve staff recommendation.

Attachments:

- McDonald Carano Engagement Docket No. 16-06006 7.2016 (PDF)
- Engagement Agreement from McDonald Carano (PDF)