

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



June 1, 2020

Marcie Milner
Vice President, Regulatory Affairs
Shell Energy North America (US), L.P.
4445 Eastgate Mall, Suite 100
San Diego, CA 92121

Dear Ms. Milner,

On October 31, 2019, Shell Energy North America (Shell Energy) filed a waiver request via Advice Letter 20-E for its 2020 year-ahead local Resource Adequacy (RA) requirement in the Stockton, Kern, and North Coast/North Bay (NCNB) local areas. Shell Energy seeks relief from its remaining 2020 year-ahead local RA obligation and any potential Commission-imposed penalties for deficiencies. Shell Energy's waiver request failed to demonstrate that it pursued all commercially reasonable efforts in procuring local capacity to meet its local RA obligations. The Energy Division of the California Public Utilities Commission (Commission) denies Advice Letter 20-E, Shell Energy's request for a penalty waiver.

Commission Decision (D.) 06-06-064 established waiver provisions for local Resource Adequacy (RA) procurement. D.19-06-026 established 2020 compliance year obligations for all Load Serving Entities (LSEs). On October 31, 2019, Shell Energy submitted its year-ahead local RA compliance filing, showing a deficiency in the Stockton, Kern, and NCNB local areas. Shell Energy also submitted a request for penalty waiver for this deficiency via Advice Letter 20-E pursuant to D.06-06-064 and D.19-06-026.

On November 20, 2019, the Public Advocates Office (Cal Advocates) submitted a protest to Advice Letter 20-E, stating that Shell Energy only provided narrative summaries of their efforts to obtain local RA, while eleven other LSEs provided solicitation materials, bids received or submitted, and email communications. Cal Advocates requests that the Commission require Shell Energy amend their advice letter to provide this documentation. Cal Advocates also recommends that the Commission evaluate the availability of capacity, specifically compare reported local RA capacity deficiencies for LSEs from other LSEs that show long position for the same local areas to determine whether the deficient LSEs made all reasonable efforts to procure. Cal Advocates also recommends evaluating CAISO's list of available capacity to determine whether resource owners exercised market power through withholding capacity or offering unreasonably high bids. Cal Advocates states that this information can help evaluate whether LSEs have sufficiently justified their need for a waiver.

On November 27, 2019, Shell Energy replied to Cal Advocate's protest, arguing that they provided adequate documentation through the description and explanation provided in its Advice Letter. Shell Energy states that they described their participation in PG&E's RFO, as well as their efforts in inquiring with twelve counterparties to procure the deficient local capacity, and the results of those efforts. Shell Energy requests the Commission to reject Cal Advocate's demand for it to amend its Advice Letter. However, Shell Energy agrees with Cal Advocates' request for the Commission to investigate whether there was possible withholding of excess local capacity, as well as examine the extent to which disaggregating the "PG&E Other" local area contributed to local RA deficiencies and consequent waiver requests.

Section 3.3.12 of D.06-06-064 describes a standard that an LSE may use to demonstrate that it could not reasonably achieve its LCR obligations:

(1) a demonstration that the LSE reasonably and in good faith solicited bids for its RAR capacity needs along with accompanying information about the terms and conditions of the Request for Offer or other form of solicitation, and

(2) a demonstration that despite having actively pursued all commercially reasonable efforts to acquire the resources needed to meet the LSE's local procurement obligation, it either

(a) received no bids, or

(b) received no bids for an unbundled RA capacity contract of under \$40 per kW-year or for a bundled capacity and energy product of under \$73 per kW-year, or

(c) received bids below these thresholds but such bids included what the LSE believes are unreasonable terms and/or conditions, in which case the waiver request must demonstrate why such terms and/or conditions are unreasonable.

An LSE's waiver request that meets these requirements is a necessary but not a sufficient condition for the grant of such waiver. The Commission will also consider other information brought to its attention regarding the reasonableness of the waiver request.

Energy Division reviewed the documentation provided by Shell Energy on its efforts to procure local capacity and issued a data request to Shell Energy on January 3, 2020 to seek more information, including bids offered into other RFOs and bids received from its RFOs. Shell Energy provided the relevant documentation requested by Energy Division.

Energy Division has reviewed Shell Energy's actions and finds that Shell Energy has not demonstrated that it has made reasonable and good faith effort to procure capacity to meet its local RA obligations. In this case, Energy Division finds that Shell Energy did not issue RFOs or other forms of solicitation of their own to solicit bids, and therefore did not pursue all commercially reasonable efforts to acquire the resources needed to meet the LSE's local procurement obligation. Thus, Energy Division denies Advice Letter 20-E, Shell Energy's request for a waiver of Commission penalties related to its year-ahead 2020 local RA procurement.

Sincerely,

Handwritten signature of Edward Randolph in cursive, with "(for)" written below it.

Edward Randolph
Deputy Executive Director for Energy and Climate Policy /
Director, Energy Division

Cc: EDComplianceReports@cpuc.ca.gov
Julie Halligan, Public Advocates Office
Xian Li, Public Advocates Office