

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



June 1, 2020

Jeanne M. Sole
Deputy Director of Power Resources
San Jose Clean Energy
200 E. Santa Clara St., 14th Floor
San Jose, CA 95113

Dear Ms. Sole,

On October 31, 2019, San Jose Clean Energy (San Jose) filed a waiver request via Advice Letter 3-E for its 2020 year-ahead local Resource Adequacy (RA) requirement in the Fresno, Sierra, Stockton, and Humboldt local areas. San Jose seeks relief from its remaining 2020 year-ahead local RA obligation and any potential Commission-imposed penalties for deficiencies. San Jose's waiver request demonstrates 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) approves Advice Letter 3-E, San Jose'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, San Jose submitted its year-ahead local RA compliance filing, showing a deficiency in the Fresno, Sierra, Stockton, and Humboldt local areas. San Jose also submitted a request for penalty waiver for this deficiency via Advice Letter 3-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 3-E, stating that San Jose 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 San Jose 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 20, 2019, Pacific Gas & Electric Company (PG&E) also submitted a protest to Advice Letter 3-E, stating that San Jose did not provide adequate support for their allegation that PG&E delayed its sale of excess RA. PG&E states that they acted in a manner consistent with their Commission-approved Bundled Procurement Plan, which includes the criteria, standards, and timing for PG&E's management and sales of RA products. Further, PG&E states that they offered RA for sale before and after the October 31, 2019 RA compliance deadline in multiple solicitations.

On November 27, 2019, San Jose replied to Cal Advocate and PG&E's protest. In reply to PG&E, San Jose requests to amend their Advice Letter with nine statements regarding PG&E's sale of local capacity. In reply to Cal Advocates, San Jose states that they provided sufficient evidence in their waiver request regarding the demonstration of their effort to procure local capacity. San Jose expresses their willingness to provide additional documentation requested by Energy Division. Lastly, San Jose states that if the Commission were to adopt a requirement on documentations for waiver requests, the Commission specify the type of documentation required and include this requirement in future RA Guides.

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

Energy Division has reviewed San Jose's actions and finds them reasonable considering the capacity available to meet San Jose's local RA obligation. In this case, Energy Division finds that San Jose held solicitations and pursued all commercially reasonable efforts to acquire the resources needed to meet the LSE's local procurement obligation. San Jose's waiver request includes confidential market-sensitive information supporting this finding. Thus, Energy Division grants Advice Letter 3-E, San Jose's request for a waiver of Commission penalties related to its year-ahead 2020 local RA procurement.

Sincerely,



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

Cc: EDComplianceReports@cpuc.ca.gov
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