PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

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

CITATION FOR VIOLATIONS OF RESOURCE ADEQUACY REPORTING REQUIREMENTS UNDER RESOLUTION E-4195, AS MODIFIED BY DECISIONS 10-06-036, 11-06-022 and 14-06-050

Citation No. E-4195-0052 **Issued: February 14, 2019**

Re: San Jose Clean Energy Failure to Meet Resource Adequacy for 2019

Dear Ms. Jeanne M. Sole:

Pursuant to Resolution E-4195, subsequently modified by Decisions 10-06-036, D.11-06-022 and 14-06-050, San Jose Clean Energy is hereby cited for the following specified violations:

1. Failure to file Historic Load Data at the time and manner required.	☐
2. Failure to file a Preliminary Load Forecast at the time and manner required.	☐
3. Failure to file a Month-Ahead System Resource Adequacy Compliance Filing at the time and manner required.	☐
4. Failure to file a Preliminary Local Resource Adequacy Compliance Filing, or a Year-Ahead System Resource Adequacy Compliance Filing at the time and manner required.	☐
5. Failure to comply with a request for information from Energy Division that is reasonably related to implementation of the resource adequacy requirements in the time and manner required.	☐
6. Deficiency cured within five business days from the date of notification by Energy Division.	☒

7. Deficiency remedied after five business days from the date of Energy Division notification or not remedied at all.	☒

Evidence of Violations

A. Summary

San Jose Clean Energy (SJCE) failed to meet its Year Ahead (YA) 2019 System Resource Adequacy (RA) obligations. On September 27, 2018, Energy Division (ED) staff provided SJCE their 2019 YA RA allocations. On October 31, 2018, SJCE filed its 2019 YA System RA compliance showing. On January 16, 2019, ED issued a deficiency notice to SJCE, indicating a need for 455.61 megawatts (MW) of System RA for July, 595.53 MW of System RA for December, 7.00 MW of Flexible RA for January, 7.00 MW of Flexible RA for February, 34.10 MW of Flexible RA for July, 121.1 MW of Flexible RA for September, and 77.1 MW of Flexible RA for October, and provided a revised filing deadlines of January 23, 2019. On January 23, 2019, SJCW sent revised filing showing that they procured an additional 55.00 MW of System RA for July and September, 8.00 MW of Flexible RA for January, 16.00 MW of Flexible RA for February, 22.00 MW of Flexible RA for July and September, 36.00 MW flexible RA for October, and 12.00 MW flexible RA for November. Table 1 provides a detailed summary of SJCE's System RA obligations and compliance for July and September 2019.

Table 1: Summary of SJCE System RA Obligations and Compliance (MW)

Month	Allocation for System RA Requirement	Total System RA Resources Procured	Deficiency in System RA Requirement	Total System RA Resources Procured in Revised Filing	Revised Deficiency in System RA Requirement
July	[redacted]	[redacted]	**455.61**	[redacted]	**400.61**
September	[redacted]	[redacted]	**650.53**	[redacted]	**595.53**

Table 2 provides a detailed summary of SJCE's Flexible RA obligations and compliance for January, February, July, September, and October 2019.

Table 2: Summary of SJCE Flexible RA Obligations and Compliance (MW)					
Month	Allocation for Flexible RA Requirement	Total Flexible RA Resources Procured	Deficiency in Flexible RA Requirement	Total Flexible RA Resources Procured in Revised Filing	Revised Deficiency in Flexible RA Requirement
January	[redacted]	[redacted]	**7.00**	[redacted]	**0.00**
February	[redacted]	[redacted]	**7.00**	[redacted]	**0.00**
July	[redacted]	[redacted]	**34.10**	[redacted]	**12.10**
September	[redacted]	[redacted]	**121.10**	[redacted]	**99.10**
October	[redacted]	[redacted]	**77.10**	[redacted]	**41.10**

This violation is for:

1. System RA deficiency cured within five business days from the date of notification by ED for the months of July and September;
2. System RA deficiency remedied after five business days from the date of notification by ED or not remedied at all for the months of July and September;
3. Flexible RA deficiency cured within five business days from the date of notification by ED for the months of January, February, and October;
4. Flexible RA deficiency remedied after five business days from the date of notification by ED or not remedied at all for the month of October.

Scheduled penalties prescribe a $10,000.00 per incident for System RA deficiency cured within five business days from the date of notification by ED if the deficiency is larger than 10 MW. Accordingly, SJCE is being cited $10,000.00/month for 55.00 MW of System RA deficiency for July and September 2019 cured within five business days from the date of notification by ED. In addition, scheduled penalties prescribe a $6.66/kW-month for a System RA deficiency not replaced after five business days from the date of notification by ED. Accordingly, SJCE is being cited $6,634,292.40 for its 400.61 MW System RA deficiency for July and 595.53 MW of System RA deficiency for September 2019 remedied after five business days from the date of notification by ED or not remedied at all. The total penalty for System RA deficiency is $6,654,292.40.

Scheduled penalties prescribe a $5,000.00 per incident for Flexible RA deficiency cured within five business days from the date of notification by ED if the deficiency is 10

MW or smaller, and $10,000.00 per incident if the deficiency is larger than 10 MW. Accordingly, SJCE is being cited $5,000.00/month for 7.00 MW of Flexible RA deficiency for January and February, and $10,000.00 for 36.00 MW of Flexible RA deficiency for October 2019 cured within five business days from the date of notification by ED. In addition, scheduled penalties prescribe a $3.33/kW-month for a Flexible RA deficiency not replaced after five business days from the date of notification by ED. Accordingly, SJCE is being cited $136,863.00 for its 41.10 MW of Flexible RA deficiency for October 2019 remedied after five business days from the date of notification by ED or not remedied at all. The total penalty for Flexile RA deficiency is $156,863.00.

The total penalty for System and Flexible RA deficiency is $6,811,155.40.

B. San Jose Clean Energy Year Ahead 2019 Resource Adequacy Deficiency

On January 16, 2019, ED emailed SJCE a deficiency notice. ED stated that SJCE was deficient with their July and September 2019 YA System RA obligation. SJCE had a YA system capacity requirement of [redacted] for July, and [redacted] for September. SJCE procured a total System RA of [redacted] for July and [redacted] for September. The deficiency notice was to procure 455.61 MW [redacted] for July, and 650.53 MW [redacted] for September of system capacity and file with the California Public Utilities Commission by January 23, 2019.

ED also stated that SJCE was deficient with their January, February, July, September, and October 2019 YA Flexible RA obligations. SJCE had a YA flexible capacity requirement of [redacted] for January and February, [redacted] for July, [redacted] for September, and [redacted] for October. SJCE procured a total Flexible RA of [redacted] for January and February, [redacted] for July, September, and October. The deficiency notice was to procure 7.00 MW [redacted] for January and February, 34.10 MW [redacted] for July, 121.10 MW [redacted] for September, and 77.10 MW [redacted] for October of flexible capacity and file with the California Public Utilities Commission by January 23, 2019.

On January 23, 2019, SJCE sent revised filing showing additional procurement of 55.00 MW of System RA for July [redacted] and September [redacted] 8.00

MW of Flexible RA for January [redacted] 16.00 MW of Flexible RA for February [redacted], 22.00 MW of Flexible RA for July [redacted] and September [redacted] 36.00 MW flexible RA for October [redacted] and 12.00 MW flexible RA for November [redacted]

The revised filing shows that SJCE cured 55.00 MW of System RA deficiency for July and 55.00 MW of System RA deficiency for September, within five business days from the date of notification by ED. The revised filing also shows a 400.61 MW System RA deficiency for July and 595.53 MW System RA deficiency for September remedied after five business days from the date of notification by ED or not remedied at all.

The revised filing shows that SJCE cured 7.00 MW of Flexible RA deficiency for January, 7.00 MW of Flexible RA deficiency for February, 22.00 MW of Flexible RA deficiency for July, 22.00 MW of Flexible RA deficiency for September, and 36.00 MW flexible RA deficiency for October, within five business days from the date of notification by ED. The revised filing also shows a 12.10 MW Flexible RA deficiency for July, 99.10 MW Flexible RA deficiency for September, and 41.10 MW Flexible RA deficiency remedied after five business days from the date of notification by ED or not remedied at all.

C. Scheduled Penalty for San Jose Clean Energy's Deficiency

Resolution E-4195, as modified by Decisions 10-06-036, 11-06-022 and 14-06-050, specifies that the penalty for a System RA deficiency cured within five business days from the date of notification by ED is $10,000.00 per incident if the deficiency is larger than 10MW. Accordingly, SJCE is being cited $10,000.00/month for 55.00 MW of System RA deficiency for July and 55.00 MW of System RA deficiency for September 2019 cured within five business days from the date of notification by ED. In addition, the penalty for a System RA deficiency not replaced after five business days from the date of notification by ED is $6.66/kW-month. Accordingly, SJCE is being cited $6,634,292.40 (996.41 MW x ($6.66/kW-month) x 1,000 kW/MW) for its 400.61 MW System RA deficiency for July and 595.53 MW of System RA deficiency for September 2019 remedied after five business days from the date of notification by ED or not remedied at

all. The total penalty for System RA deficiency is $6,654,292.40 ($20,000 plus $6,634,292.40).

The penalty for a Flexible RA deficiency cured within five business days from the date of notification by ED is $5,000.00 per incident if the deficiency is 10 MW or smaller, and $10,000.00 per incident if the deficiency if the deficiency is larger than 10 MW. Accordingly, SJCE is being cited $5,000.00/month for 7.00 MW of Flexible RA deficiency for January and 7.00 MW of Flexible RA deficiency for February, and $10,000.00 for 36 MW of Flexible RA deficiency for October 2019, cured within five business days from the date of notification by ED. In addition, the penalty for a Flexible RA deficiency not replaced after five business days from the date of notification by ED is $3.33/kW-month. Accordingly, SJCE is being cited $136,863.00 (41.10 MW x ($3.33/kW-month) x 1,000 kW/MW) for its 41.10 MW of Flexible RA deficiency for October 2019 remedied after five business days from the date of notification by ED or not remedied at all. The total penalty for Flexile RA deficiency is $156,863.00 ($5,000.00 + $5,0000.00 + $10,000.00 + $136.863.00).

The total penalty for System and Flexible RA deficiency is $6,811,155.40 ($6,654,292.40 + $156,863.00).

You are hereby called upon to answer this citation within **30** days from the date of the citation by completing the attached form. By way of such answer you may either:

(1) Comply with this Citation and pay the fine, by check or money order, payable to the California Public Utilities Commission, in the amount of $6,811,155.40 pursuant to the Specified Violations and Scheduled Penalties (D.11-06-022, Appendix B). This will be deemed a waiver of your rights to a hearing and to a formal disposition by the Commission.

OR

(2) Appeal this citation. In such event, you must file a Notice of Appeal with the Commission's Docket Office within 30 days of the date of this citation, in addition to the appeals procedures outlined below.

The Notice of Appeal must be concurrently served on the delegate of Consumer Protection and Enforcement Division's (CPED's) Director at the following address:

CALIFORNIA PUBLIC UTILITIES COMMISSION
Consumer Protection and Enforcement Division
ATTN: Jeanette Lo, Utility Enforcement Branch Chief
505 Van Ness Avenue, Room 2205
San Francisco, CA 94102

The Notice of Appeal must also be served on the Chief Administrative Law Judge (with an electronic copy to: ALJ_Div_Appeals_Coordinator@cpuc.ca.gov). No later than seven business days after the Notice of Appeal is filed, Staff issuing the citation will file a Compliance Filing with the Commission's Docket Office which includes a complete copy of the citation and all attachments. Appeals will be heard in the Commission's San Francisco courtrooms on regularly scheduled days. You may order a transcript of the hearing and must pay the cost of the transcript in accordance with the Commission's specified procedures. An attorney or other representative may represent you at the hearing, but any such representation will be at your expense.

If you fail to notify CPED of acceptance of the Scheduled Penalty and pay the full amount within 30 days or file a Notice of Appeal within 30 days, you will be in default. Upon default, CPED may take any action provided by law to recover unpaid penalties and ensure compliance with applicable statutes and Commission orders, decisions, rules, directions, demands, or requirements. Any unpaid balance of a Scheduled Penalty shall accrue interest at the legal rate of interest for judgments.

_____

Jeanette Lo
Utility Enforcement Branch Chief
Consumer Protection and Enforcement Division

STATE OF CALIFORNIA Gavin Newsom, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

☐ I hereby state that I will comply with Citation No. E-4195-0052, dated February 14, 2019, and herewith pay a fine in the amount of $6,811,155.40.

- Please make check payable to the California Public Utilities Commission and send, along with a copy of this form, to:

CALIFORNIA PUBLIC UTILITIES COMMISSION
Fiscal Office
505 Van Ness Ave., Room 3000
San Francisco, CA 94102

- Please PDF a copy of this form to Nate Christo at [nathan.christo @cpuc.ca.gov].
- You may direct all questions regarding this citation to Nate Christo at [415-703-1069] or [nathan.christo@cpuc.ca.gov].

I hereby acknowledge that if I do not appeal the citation, and do not pay the full amount within 30 days, any unpaid balance shall accrue interest at the legal rate of interest for judgments, and Commission Staff and the Commission may take action provided by law to recover unpaid penalties and ensure compliance with applicable statutes and Commission orders, decisions, rules, directions, demands or requirements.

☐ I hereby appeal Citation No. E-4195-0052, dated February 14, 2019.

- To appeal this citation, follow the directions described in this citation, and described in detail in Appendix A of Resolution ALJ-299 (both attached herein).
- Please PDF a copy of this form to Nate Christo at [nathan.christo@cpuc.ca.gov].

Signature: _____

Name and Title: _____

Name of Company: _____

Citation No.: E-4195-0052

Date: _____

EXPLANATION OF HOW TO APPEAL A CITATION

You (Respondent) may appeal the citation pursuant to the following process:

Appeal of Citation. In lieu of accepting the Scheduled Penalty, a Respondent may appeal the citation and request a hearing. In the event of an appeal, any remedy available may be imposed, and the remedy shall not be mandated by or limited to the Scheduled Penalty.

Notice of Appeal. To appeal a citation, the Respondent must file a written Notice of Appeal with the Commission's Docket Office. The Notice of Appeal must state the grounds for appeal, the date of the citation, and must be served on both the Chief Administrative Law Judge (with an electric copy to: ALJ_Div_Appeals_Coordinator@cpuc.ca.gov), and the Director of CPED, within thirty (30) days of the date of the citation. The appellant must file a proof of service at the same time appellant files the Notice of Appeal. The title page of the appeal must comply with Rule 1.6 of the Commission's Rules of Practice and Procedure. The caption of the appeal shall read: "Appeal of [party name] from [Citation ####] issued by [Commission Division which issued the citation]."

Compliance Filing. No later than seven business days after the notice of appeal is filed, Commission staff must file with the Commission's Docket Office a compliance filing which includes the complete citation, including all attachments, and simultaneously serve the Chief Judge (with an electronic copy to: ALJ_Div_Appeals_Coordinator@cpuc.ca.gov). Staff must also provide a proof of service when filing the compliance filing.

Service of Rules and Resolution. Staff shall provide a copy of Resolution ALJ-299 and the Rules adopted pursuant to that Resolution (Appendix A), with all citations issued.

Time of Hearing. No less than ten (10) days after the Notice of Appeal is filed, the assigned Administrative Law Judge shall set the matter for hearing promptly. The Administrative Law Judge, may, for good cause shown or upon agreement of the parties, grant a reasonable continuance of the hearing.

Location of Hearing. Appeals of citations shall be heard in the Commission's San Francisco courtroom on regularly scheduled days.

Exchange of Information. In order to expedite citation appeals and to eliminate potential delay, no later than three business days prior to the schedule hearing, the parties must exchange all information they intend to introduce into the record at the hearing which is not included in the citation and Compliance Filing already filed with the Commission, unless otherwise directed by the Judge.

Transcripts. The Respondent may order a transcript of the hearing and shall pay the cost of the transcript in accordance with the Commission's specified procedures.

Representation at Hearing. The Respondent may be represented at the hearing by an attorney or other representative, but any such representation shall be at the Respondent's expense.

Evidentiary Hearing. At an evidentiary hearing, CPED bears the burden of proof and, accordingly, shall open and close. The Administrative Law Judge may, in his or her discretion to better ascertain the truth, alter the order of presentation. Rule 13.6 of the Commission's Rules of Practice and Procedure provides the rules of evidence.

Interpreter. Upon a good faith showing of language difficulty and written request to the assigned Judge and Commission's Public Advisor's Office not less than five business days prior to date of hearing.

Submission. Ordinarily, the matter shall be submitted at the close of the hearing. The Administrative Law Judge, upon a showing of good cause, may keep the record open for a reasonable period to permit a party to submit additional evidence or argument.

Decision. The Administrative Law Judge will issue a draft resolution resolving the Citation Appeal expeditiously and no later than 60 days after the Citation Appeal is submitted. The draft resolution will be placed on the first available agenda consistent with the Commission's applicable rules.

Communications. From the date that a citation is issued to and including the date when the final order is issued, neither the Respondent nor CPED, or any agent or other person on behalf of the Respondent or CPED, may communicate regarding the appeal, orally or in writing, with a Commissioner, Commissioner's advisor, or Administrative Law Judge, except as expressly permitted under these procedures.

Rehearing. A resolution resolving a Citation Appeal approved by the Commission is subject to rehearing pursuant to Pub. Util. Code § 1731 and to judicial review pursuant to Pub. Util. Code § 1756.