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

Patrick Vanbeek
Commercial Energy of California
7677 Oakport Street, Suite 525
Oakland, CA 94621

CITATION FOR VIOLATION OF RESOURCE ADEQUACY (RA) REPORTING REQUIREMENTS UNDER RESOLUTION E-4195, AS MODIFIED BY DECISIONS 10-06-036, 11-06-022 AND 14-06-050

Citation No. E-4195-55 **Issued: March 5, 2019**

Re: 2019 Year Ahead System and Flexible Resource Adequacy Compliance Filing

Dear Mr. Patrick Vanbeek:

Pursuant to Resolution E-4195, subsequently modified by Decisions 10-06-036, 11-06-022 and 14-06-050, Commercial Energy of California is hereby cited for the following specified violation:

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 Violation

A. Summary

Commercial Energy of California (Commercial Energy) failed to meet its 2019 Year-Ahead ("YA") System and Flexible Resource Adequacy ("RA") obligation. On September 27, 2018, Energy Division (ED) staff provided Commercial Energy their 2019 YA RA allocations. On October 31, 2018, Commercial Energy filed its 2019 YA compliance showing. On November 9, 2018, Commercial Energy revised its 2019 YA compliance showing for May. On January 16, 2019, ED issued a deficiency notice to Commercial Energy, indicating a need for 5.49 megawatts (MW) of System RA for May, 8.45 MW of System RA for June, 11.51 MW of System RA for July, 12.51 MW of System RA for August, 14.46 MW of System RA for September, 2.00 MW of Flexible RA for February, 2.00 MW of Flexible RA for March, 2.00 MW of Flexible RA for April, 2.00 MW of Flexible RA for May, 3.00 MW of Flexible RA for June, 2.00 MW of Flexible RA for July, 3.00 MW of Flexible RA for August, 3.00 MW of Flexible RA for September, 3.00 MW of Flexible RA for October, and 4.00 MW of Flexible RA for December, and provided a revised filing deadlines of January 23, 2019. On January 23, 2019, Commercial Energy sent revised filing showing that they procured an additional 5.00 MW of System RA for May, 13.00 MW of System RA for June, 3.00 MW of Flexible RA for February, 3.00 MW of Flexible RA for May, 3.00 MW of Flexible RA for June, 3.00 MW of Flexible RA for October, and 2.00 MW of Flexible RA for December. Table 1 provides a detailed summary of Commercial Energy's System RA obligations and compliance for May, June, July, August, and September 2019.

Table 1: Summary of Commercial Energy's 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
May	[redacted]	[redacted]	**5.49**	[redacted]	**0.49**
June	[redacted]	[redacted]	**8.45**	[redacted]	**0.00**
July	[redacted]	[redacted]	**11.51**	[redacted]	**11.51**

August	[redacted]	[redacted]	**12.51**	[redacted]	**12.51**
September	[redacted]	[redacted]	**14.46**	[redacted]	**14.46**

Table 2 provides a detailed summary of Commercial Energy's Flexible RA obligations and compliance for February, March, April, May, June, July, August, September, October and December 2019.

Table 2: Summary of Commercial Energy's 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
February	[redacted]	[redacted]	**2.00**	[redacted]	**0.00**
March	[redacted]	[redacted]	**2.00**	[redacted]	**2.00**
April	[redacted]	[redacted]	**2.00**	[redacted]	**2.00**
May	[redacted]	[redacted]	**2.00**	[redacted]	**0.00**
June	[redacted]	[redacted]	**3.00**	[redacted]	**0.00**
July	[redacted]	[redacted]	**2.00**	[redacted]	**2.00**
August	[redacted]	[redacted]	**3.00**	[redacted]	**3.00**
September	[redacted]	[redacted]	**3.00**	[redacted]	**3.00**
October	[redacted]	[redacted]	**3.00**	[redacted]	**0.00**
December	[redacted]	[redacted]	**4.00**	[redacted]	**2.00**

This violation is for:

1. System RA deficiency cured within five business days from the date of notification by ED for the months of May and June;
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 May, July, August and September;
3. Flexible RA deficiency cured within five business days from the date of notification by ED for the months of February, May, June, October, and December;
4. Flexible RA deficiency remedied after five business days from the date of notification by ED or not remedied at all for the months of March, April, and December.

Scheduled penalties prescribe a $10,000.00 per filing for System RA deficiency cured within five business days from the date of notification by ED if the deficiency is over 10 MW. Accordingly, Commercial Energy is being cited $10,000.00 for its 5 MW of System RA deficiency in May and 8.45 MW of System RA deficiency in June 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, Commercial Energy is being cited $259,540.20 for its 0.49 MW System RA deficiency for May, 11.51 MW of System RA deficiency for July, 12.51 MW of System RA deficiency for August, and 14.46 MW of System RA deficiency for September 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 $269,540.20.

Scheduled penalties prescribe a $10,000.00 per incident for Flexible RA deficiency cured within five business days from the date of notification by ED if the deficiency larger than 10 MW. Accordingly, Commercial is being cited $10,000.00 for 2.00 MW of Flexible RA deficiency for February, 2.00 MW of Flexible RA deficiency for May, 3.00 MW of Flexible RA deficiency for June, 3.00 MW of Flexible RA deficiency for October, and 2.00 MW of Flexible RA deficiency for December 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, Commercial Energy is being cited $19,980.00 for its 2.00 MW of Flexible RA deficiency for March, 2.00 MW of Flexible RA deficiency for April, and 2.00 MW of Flexible RA deficiency for December 2019 not replaced after five business days from the date of notification by ED or not remedied at all. The total penalty for Flexile RA deficiency is $29,980.00.

The total penalty for System and Flexible RA deficiency is $299,520.20.

B. Commercial Energy's 2019 YA RA Deficiency

On January 16, 2019, ED emailed Commercial Energy a deficiency notice. ED stated that Commercial Energy was deficient with their May, June, July, August and September 2019 YA System RA obligation. Commercial Energy had a YA System

capacity requirement of [redacted] for May, [redacted] for June, [redacted] for July, [redacted] for August and [redacted] for September. Commercial Energy procured [redacted] for May, [redacted] for June, [redacted] for July, [redacted] for August and [redacted] for September. The deficiency notice was to procure 5.49 MW [redacted] for May, 8.45 MW [redacted] for June, 11.51 MW [redacted] for July, 12.51 MW [redacted] for August, and 14.46 MW [redacted] for September of System RA and file with the California Public Utilities Commission by January 23, 2019.

ED also stated that Commercial Energy was deficient with their February, March, April, May, June, July, August, September, October, and December 2019 YA Flexible RA obligations. Commercial Energy had a YA Flexible RA requirement of [redacted] for February, [redacted] for March, [redacted] for April, [redacted] for May, [redacted] for June, [redacted] for July, [redacted] for August, [redacted] for September, [redacted] for October, and [redacted] for December. Commercial Energy procured a total Flexible RA of [redacted] for February, [redacted] for March, [redacted] for April, [redacted] for May, [redacted] for June, [redacted] for July, [redacted] for August, [redacted] for September, [redacted] for October, and [redacted] for December. The deficiency notice was to procure 2.00 MW [redacted] for February, 2.00 MW [redacted] for March, 2.00 MW [redacted] for April, 2.00 MW [redacted] for May, 3.00 MW [redacted] for June, 2.00 MW [redacted] for July, 3.00 [redacted] for August, 3.00 MW [redacted] for September, 3.00 MW [redacted] for October, and 4.00 MW [redacted] for December of Flexible RA and file with the California Public Utilities Commission by January 23, 2019.

On January 23, 2019, Commercial Energy sent revised filing showing additional procurement of 5.00 MW of System RA for May [redacted] and 13.00 MW of System RA for June [redacted] 3.00 MW of Flexible RA for February [redacted]), 3.00 MW of Flexible RA for May [redacted] 3.00 MW of Flexible RA for June [redacted] 3.00 MW flexible RA for October [redacted] and 2.00 MW flexible RA for December [redacted]

The revised filing shows that commercial cured 5.00 MW of System RA deficiency for May and 8.45 MW of System RA deficiency for June, within five business days from the date of notification by ED. The revised filing also shows a 0.49 MW

System RA deficiency for May, 11.51 MW of System RA deficiency for July, 12.51 MW of System RA deficiency, and 14.46 MW of 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 Commercial Energy cured 2.00 MW of Flexible RA deficiency for February, 2.00 MW of Flexible RA deficiency for May, 3.00 MW of Flexible RA deficiency for June, 3.00 MW of Flexible RA deficiency for October, and 2.00 MW flexible RA deficiency for December, within five business days from the date of notification by ED. The revised filing also shows a 2.00 MW Flexible RA deficiency for March, 2.00 MW Flexible RA deficiency for April, 2.00 MW Flexible RA deficiency for July, 2.00 MW Flexible RA deficiency for August, 3.00 MW Flexible RA deficiency for September, and 2.00 MW Flexible RA deficiency for December remedied after five business days from the date of notification by ED or not remedied at all.

C. Scheduled Penalty for Commercial 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, Commercial Energy is being cited $10,000.00 for 5.00 MW of System RA deficiency for May and 8.45 MW of System RA deficiency for June 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, Commercial Energy is being cited $259,540.20 (38.97 MW x ($6.66/kW-month) x 1,000 kW/MW) for its 0.49 MW System RA deficiency for May, 11.51 MW of System RA deficiency for July, 12.51 MW of System RA deficiency for August, and 14.46 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 $269,540.20 ($10,000 plus $259,540.20).

The penalty for a Flexible 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 10

MW. Accordingly, Commercial Energy is being cited for $10,000.00 for 2.00 MW of Flexible RA deficiency for February, 2.00 MW of Flexible RA deficiency for May, 3.00 MW of Flexible RA deficiency for June, 3.00 MW of Flexible RA deficiency for October, and 2.00 MW of Flexible RA deficiency for December 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, Commercial Energy is being cited $19,980.00 (6 MW x ($3.33/kW-month) x 1,000 kW/MW) for its 2.00 MW of Flexible RA deficiency in March, 2.00 MW of Flexible RA deficiency in April and 2.00 MW of Flexible RA deficiency in December 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 $29,980.00 ($10,000.00 plus $19,980.00).

The total penalty for System and Flexible RA deficiency is $299,520.20 ($269,540.20 plus $29,980.00).

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 $299,520.20 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-4195-55, dated March 3, 2019, and herewith pay a fine in the amount of $299,520.20.

- 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 [415-412-7203] 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-4195-55, dated March 3, 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-4195-55

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.